143 - 305

143 - 305

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1890.

ORIGINAL No. 9.

EX PARTE THOMAS HENRY COOPER, OWNER AND CLAIMANT OF THE BRITISH SCHOONER "W. P. SAYWARD."

Application for Writ of Prohibition to the United States District Court for the District of Alaska.

TRANSCRIPT OF PROCEEDINGS IN THE DISTRICT COURT OF ALASKA IN THE CASE OF UNITED STATES vs. THE SCHOONER "W. P. SAYWARD," No. 84,

WITH

APPENDIX.

FILED APRIL 8, 1891.

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA.

No. 84.

THE UNITED STATES

vs.

THE SCHOONER "W. P. SAYWARD."

INDEX.

	Original.	Print.
Caption	1	1
Libel of information	2	1
Monition	9	3
Marshal's return	13	4
Order granting leave to file claim of master for owners	14	4
Claim of master for owners	15	5
Order granting leave to file demurrer to libel	17	5
Demurrer to libel	18	6
Order overruling demurrer to libel	20	6
Order granting leave to file answer to libel	21	7
Answer	21	7
Order granting leave to file waiver of publication, &c.	25	8
Waiver of publication of notice, &c.	26	8
Findings of fact	28	9
Conclusions of law	30	9
Order denying motion in arrest of decree	31	9
Motion in arrest of decree	32	10
Decree of forfeiture	34	10
Order granting leave to appeal	38	11
Petition for leave to appeal	39	11
Order overruling motion for stay	40	12
Motion for stay	41	12
Order directing marshal to sell schooner, &c.	42	13
Writ of *venditioni exponas*	43	13
Marshal's return	47	14
Order overruling motion for appointment of appraisers	48	15
Motion for the appointment of appraisers	49	15
Order directing marshal to sell skins at Sitka	50	15
Order overruling motion for renewed leave to appeal	51	15
Motion for renewed leave to appeal	52	15
Order granting permission to appeal	54	16
Order appointing appraisers, &c.	54	16
Report of appraisers	56	17
Order to pay appraisers	57	17
Consent that vessel be discharged on stipulation	58	17
Motion to file stipulation for appraised value	60	18
Stipulation for appraised value	60	18

	Original.	Print.
Bond for costs	68	20
Order approving stipulation	72	22
Order for release of vessel, &c.	72	22
Order to withdraw sale of cargo	73	22
Order to make copy of registry of the vessel	73	22
Order to perfect appeal	74	22
Order granting leave to file appeal and affidavit on appeal	74	23
Affidavit on appeal	75	23
Petition for appeal	78	24
Order granting appeal	82	25
Bill of exceptions	85	25
Testimony of Capt. L. G. Sheppard	85	25
Thomas A. Benham	92	28
David A. Hall	95	28
Barton Atkins	95	29
Findings of fact	96	29
Conclusions of law	98	29
Exhibit A—Certificate of registry	101	30
B—Agreement and account of crew	103	30
C—Clearance	105	30
D—Bill of health	107	30
Order rescinding orders of April 14 and 16, 1888	109	31
Order to interpose the name of Cooper as actual owner, &c.	110	31
Motion for leave to interpose the name of actual owner, &c.	111	32
Certified copies of orders to the marshal, &c.	113	32
(*a*) Order to sell skins at Sitka	114	32
Marshal's return	116	33
(*b*) Order to withdraw cargo from sale	116	33
Marshal's return	118	34
(*c*) Order for release of vessel	118	34
Marshal's return	121	34
Order on marshal's return to writ of *venditioni exponas*	121	35
Order granting leave to file petition for restitution of money, &c.	123	35
Motion for leave to file petition for restitution of money, &c.	124	35
Petition for restitution of money	125	36
Findings of fact on petition for restitution of money	129	37
Conclusion of law on petition for restitution of money	132	38
Affidavit of Andrew Laing	135	38
Stipulation that affidavit of Laing shall go before the court as his testimony	136	38
Notes of the evidence	138	39
For the prosecution	139	39
Testimony of Capt. L. G. Shepard	139	39
Thomas A. Benham	144	41
Lieutenant Hall	146	42
Marshal Atkins	147	42
For the defense	147	42
Testimony of Captain Ferry	147	42
Log book of schooner "W. P. Sayward"	153	44
Clerk's certificate	193	177

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA.

1 THE UNITED STATES OF AMERICA, }
District of Alaska. }

In the United States District Court for the District of Alaska.

THE UNITED STATES }
vs. } No. 84.
THE SCHOONER W. P. SAYWARD. }

Pleas and Proceedings Began and Had in the United States District Court for the District of Alaska in the Above-Entitled Cause.

The Honorable Lafayette Dawson, district judge.

Be it remembered that on the 13th day of September, 1887, a libil of information was filed in said cause, which is in words and
2 figures following, to wit:

In the United States District Court in and for the District of Alaska, United States of America.

To the Honorable Lafayette Dawson, judge of said district court:

The libel of information of M. D. Ball, attorney of the United States for the district of Alaska, who prosecutes on behalf of the United States, in the name and on behalf of the said United States al-eges and informs as follows, to wit:

That L. G. Shepard, an officer in the Revenue Marine Service of the United States, duly commiss-oned by the President of the United States, in command of the United States revenue cutter Rush and on special duty in the waters of the district of Alaska, heretofore, to wit, on the 9th day of July, A. D. 1887, within the limits of
3 Alaska Territory and in the watters thereof and within the civil and judicial district of Alaska, to wit, within the watters of that portion of Behring Sea belonging to the United States and said district, on watters navigable from the sea by vessles of ten or more tons burden, seized the schooner W. P. Sayward, of Victoria, B. C., her tackle, apparrel, boats, cargo, and furniture, being the property of some person or persons unknown to said attorney.

The property is more particularly described as follows, to wit:

Schooner W. P. Sayward, of Victoria, B. C., of 59 & $\frac{79}{100}$ tons burden, as per register standing, and run-ing rig-ing, sa*l*is, chronometer, and nautical instruments, clock, lamps, carpenters' tools, books, two anchors, cask, cooking and table utensils, provisions, and 477 fur-seal skins, and all other property found upon or appertenant to said schooner.

4 That L. G. Shepard was then and there duly commissioned and authorized by the proper department of United States to make said seizure.

That all said property was then and there seized as forfeited to the United States for the following causes:

That the said vessel and her captain, officers, and crew were then and there found engaged in killing fur se-ls within the limits of Alaska Territory and in the said wat*t*ers thereof in violation of section 1956 of the Revised Statutes of the United States.

That all said property, after being seized as aforesaid, was brought into the port of Sitka, in said district, and turned over to the United States marshal of this district, with the exception of the said

5 477 fur-seal skins, which latter were brought into the port of Oonalaska, in said Territory, and delivered into the keeping of Isaac Anderson, a deputy United States marshal of this district, and all of said property is now within the judicial district of Alaska, United States of America.

And said M. D. Ball, attorney as aforesaid, further informs and al-eges that on the 9th day of July, A. D. 1887, Geo. R. Ferry and certain other persons, whose names are to the said United States attorney unknown, who were then and there engaged on board said schooner W. P. Sayward as seamen and seal-hunters, did, under the direction and by the authority of Geo. R. Ferry, then and there master of said schooner, engage in killing and did kill in the Territory and district of Alaska and in the wat*t*ers thereof thirty

6 fur seals, in violation of section 1956 of the Revised Statutes of the United States in such cases made and provided.

That the said 477 fur-seal skins and other goods so seized on board the schooner W. P. Sayward constituted the cargo of said schooner at the time of the killing of said fur seals and at the time of said seizure.

And said attorney sayeth that all and singular the premises were and are true and within the admiralty and ma-itime jurisdiction of the United States and of this hon*o*rable court, and that by reason thereof and by force of the statutes in such cases made and provided the aforementioned schooner, being a vessel of $59\frac{79}{100}$ tons burden, and her said appar*r*el, tackle, boats, cargo, and furniture, became and are forfeited to the use of the United States.

7 Wherefore the said attorney prays that the usual process and monition of this hon*o*rable court issue in this behalf against said schooner and all said hereinbefore-described property to enforce the forfeiture thereof, and requiring notice to be given to all persons to appear and show cause, on the return day of said process, why said forfeiture should not be decreed, and that, after due proceedings are had, all said property be adjudged, decreed, and con-

demned as forfeited to the use of the United States, and for such other relief as may be proper in the premises.

Dated Sept. 13, A. D. 1887.

M. D. BALL,
United States District Attorney for the District of Alaska,
By A. K. DELANEY,
Special Ass't Att'y for U. S.

8 Which is endorsed on the back thereof as follows:

No. 84. United States district court, district of Alaska. The United States ag'st The Schooner "W. P. Sayward." Libel of information. Filed Sept. 13, 1887. H. E. Haydon, clerk, by A. A. Meyer, deputy clerk.

Be it further remembered that on the 15 day of September the monition was issued in said cause in words and figures following, to wit:

9 United States District Court for the District of Alaska.

DISTRICT OF ALASKA, *sct:*

The President of the United States of America to the marshal of the district of Alaska, Greeting:

Whereas a libel of information hath been filed in the district court of the United States for the district of Alaska, on the 13 day of September, in the year 1887, by Hon. M. D. Ball, United States attorney for the district aforesaid, on behalf of the United States of America, against the schooner W. P. Sayward, her tackle, apparel, boats, cargo, and 477 fur-seal skins and furniture, as forfeited to the use — United States for the reasons set forth in the said libel
10 of information, and praying the usual process and monition of said court in that behalf to be made, and that all persons interested in the said schooner W. P. Sayward, her tackle, apparel, boats, cargo, and said seal skins and furniture, etc., may be cited in general and special to answer the premises, and, all proceedings being had, that the said schooner W. P. Sayward, her tackle, apparel, boats, cargo, and said seal skins and furniture, may, for the causes in the said libel of information mentioned, be condemned as forfeited to the use of the United States:

You are therefore hereby commanded to attach the said schooner W. P. Sayward, her tackle, apparel, boats, cargo, and said seal skins and furniture; to detain the same in your custody until the
11 further order of the court respecting the same, and to give notice to all persons claiming the same or knowing or having anything to say why the same should not be condemned and sold pursuant to the prayer of the said libel of information that they be and appear befor- the said court, to be held in and for the district of Alaska *and* the 19 day of September, 1887, at 11 o'clock in the forenoon of the same day, if the same shall be a day of jurisdiction, otherwise on the next day of jurisdiction thereafter, then and there

to interpose a claim for the same and to make their al-egations in that behalf; and what you shall have done in the premises do you then and there make return thereof, together with this writ.

Witness the Honerable Lafayette Dawson, judge of said
12 court, and the seal thereof, affixed at the city of Sitka, in the district of Alaska, this 15 day of September, in the year of our Lord one thousand eight hundred and eighty-seven, and of the Independence of the United States the one hundred and twelfth.

H. E. HAYDON,
Clerk U. S. District Court,
[L. S.] By A. A. MEYER,
Deputy Clerk.

Which is indorsed on the back thereof in the words and figures following, to wit:

No. 84. In the United States district court for the district of Alaska. The United States *vs.* The Schooner W. P. Sayward. Monition. Returned and filed Sept. 19, 1887. H. E. Haydon, clerk, by A. A. Meyer, deputy.

To which monition is attached the marshal's return, which
13 is in words and figures following, to wit:

Return.

SITKA, } *set:*
District of Alaska, }

Be it remembered that in obedience to the annexed monition I have attached the within-described property and now hold the same in my possession subject to the order of this honerable court.

And the owners and claimants of said property having in writing, filed in court this day, waived notice of publication and posting of the libil and seizure—

I therefore have notified all persons claiming said property to be and appear before this district court on the 19th day of September, 1887, at 11 o'clock in the forenoon, then and there to make their claims and allegations in that behalf.

14 Sitka, Alaska, Septemb-r 19th, 1887.

BARTON ATKINS,
U. S. Marshall.

Be it further remembered that on the 15th day of September, 1887, the following proceedings were had in said court in said cause, to wit:

In the Matter of THE UNITED STATES } No. 84.
vs.
SCHOONER W. P. SAYWARD. }

Claim of Owners.

Comes now W. Clark, proctor for claimants, and moves the court for leave to file claim of master for owners.

It is considered and ordered by the court that leave be granted.

Which said claim is in the words and figures following, to wit:

15 In the United States District Court for the District of Alaska.

UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } No. 84. Claim of Master.

And now Georg- R. Ferey, master of the above schooner, "W. P. Sayward," her tackle, apparrel, furniture, and cargo, intervening for and in behalf of J. D. Warren & Andrew Laing, owners of the said schooner "W. P. Sayward, her tackle, apparrel, furniture, and cargo, appears before this honerable court and makes claim to the said schooner "W. P. Sayward," her tackle, apperral, furniture, and cargo, as the same are attached by the marshal of the said district of Alaska,
16 under process of this court, at the instance of the Hon. M. D. Ball, United States district attorney for the district of Alaska; and the said George R. Ferey avers that he was in possession of the said schooner, her tackle, apperral, furniture, and cargo at the time of the seizure thereof, and that the persons above named are the true and *bona fide* owners of the said schooner, her tackle, apparrel, furniture, and cargo, and that no other person is the owner thereof; wherefore he prays to defend accordingly.

GEORGE R. FEREY.

Sworn to and subscribed this fifteenth day of September, A. D. 1887, before me—

H. E. HAYDON,
Clerk U. S. District Court,
By A. A. MEYERS,
Deputy Clerk.

[L. S.]

W. CLARK,
Proctor for Claimant.

17 Endorsed as follows on the back thereof, to wit:
No. 84. United States *vs.* Schooner W. P. Sayward. Claim. Filed Sept. 15, '87. H. E. Haydon, clerk, by A. A. Meyer, deputy clerk. W. Clark, proctor for claimant.

Be it further remembered that on said 15th day of September, 1887, the following further proceeding was had in said court in said cause, to wit:

In the Matter of THE UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } No. 84. Demurrer.

At this time comes W. Clark, proctor for the claimants, and moves the court for leave to file a demurrer to the libil of information filed herein.

It is considered and ordered by the court that leave be granted.

18 Which demurrer is in the words and figures following, to wit:

In the United States District Court for the District of Alaska.

UNITED STATES *vs.* SCHOONER W. P. SAYWARD	No. 84. Demurrer.

At this time comes W. Clark, Esq., proctor for the claimant of the property proceeded against in the above cause, and demures to the libl*e* of information filed herein.

The said claimant, by protestation, not confessing all or any of the matters in the said information contained to be true, demures thereto and says that the said matters, in manner and form as the same are in said information stated and set forth, are not sufficient in law for the United States to maintain their said action
19 for the forfeiture of the property aforesaid, and that the said claimant is not bound by law to answer the same. Wherefore the said claimant prays that the said information be dismissed with costs.

W. CLARK,
Proctor for Claimant.

End'r's't on the back thereof is the following, to wit:
No. 84. United States *vs.* Schooner W. P. Sayward. Demurrer. Filed September 15, 1887. H. E. Haydon, clerk, by A. A. Meyer, deputy clerk. W. Clark, proctor for claimant.

Be it further remembered that on the said 15th day of September, 1887, the following further proceeding was had in said court in said cause, to wit:

20

In the Matter of THE UNITED STATES *vs.* SCHOONER W. P. SAYWARD.	No. 84. Demurrer Overruled.

Now, at this time, come the parties above named, by their respective attorneys, Mr. A. K. Delaney for plaintiff and Mr. W. Clark for defendant; and, this cause coming on to be heard upon demurrer to libl therein, and the court being fully advised in the premises, it is considered and ordered that the demurrer be, and the same is hereby, overruled.

Be it further remembered that on said 15th day of Septembe-, 1887, the following further proceeding was had in said court in said cause, to wit:

21 In the Matter of THE UNITED STATES *vs.* SCHOONER W. P. SAYWARD. } No. 84. Answer Filed.

And now comes George R. Tarry, by W. Clark, Esq., the master of the aforesaid schooner, and moves the court for leave to file an answer to the libel of information herein. It is so ordered.

Which said answer is in words and figures following, to wit:

In the United States District Court for the District of Alaska.

UNITED STATES *vs.* SCHOONER W. P. SAYWARD. } No 84. Answer.

The Answer of George R. Ferey, Master.

22 And now comes George R. Ferey, master as aforesaid, and for answer to the libel of information filed herein says:

1st.

He admits that L. G. Shepard was an officer of the United States Revenue Marine Service, duly commissioned, and that he was at the time the property proceeded against herein was seized in command of the United States revenue cutter "Rush" and on official duty at the time the said seizure was made, and was then and there duly commissioned and authorized by the proper department of the United States to make said seizure, but denies that said seizure was made within the watters of Alaska Territory, or within the civil and judicial district of Alaska, or any portion of Behring Sea
23 belonging to the United States, or upon any other watters belonging to libelants navigable from the sea by vessels of ten tons or over.

2d.

Denies that said vessel, her captain, officers, and crew, were then and there found engaged in killing fur seals within the limits of Alaska Territory or in the watters thereof, or that they were then and there violating any law of the United States.

3rd.

Denies that on the ninth day of July, A. D. 1887, any other person or persons did then and there, under the direction and authority of the said George R. Ferey or any other person, or at all, kill any fur seal within the district of Alaska or in the watters thereof.

4th.

24 Denies that the property proceeded against in this cause or any portion thereof ever became forfeited to the United States. Wherefore the said claimant prays that the libel of information filed

herein may be dismissed, and for any other just and equitable relief as to this court may seem meet and proper.

GEORGE R. FEREY.

Sworn to and subscribed this fifteenth day of September, A. D. 1887, before me—

[L. S.]

H. E. HAYDON,
Clerk U. S. Dist. Court,
By A. A. MEYER,
Deputy Clerk.

W. CLARK,
Proctor for Claimant.

Which is endorsed on the back thereof as follows, to wit:

No. 84. United States *vs.* Schooner W. P. Sayward. Answer. Filed September 15, 1882. H. E. Haydon, clerk, by A. A. Meyer, deputy clerk. W. Clark, proctor for claimant.

Be it further remembered that on the 19th day of September, 1887, the following further proceeding was had in said court in said cause, to wit:

In the Matter of THE UNITED STATES *vs.* SCHOONER W. P. SAYWARD. } No. 84. Waiver.

And now comes W. Clark, Esq., proctor for the owners, and moves the court for leave to file a waiver to the publication and posting of the libel and seizure of the property, and also the time of hearing, and announces himself ready for trial. It is so ordered.

Which said waiver is in the words and figures following, to wit:

In the United States District Court for the District of Alaska.

UNITED STATES *vs.* SCHOONER W. P. SAYWARD. } No. 84. Waiver of Publication of Notice.

And now comes W. Clark, Esq., proctor for the owners of the above-named schooner, as appears by their claim filed herein, and, on behalf of said owners and being authorized thereto, waives said owners' right to publication and posting of the notice of the libel and seizure of the property being proceeded against in this cause, and waives also time of hearing, and announces himself ready to proceed to trial.

W. CLARK,
Proctor for Claimants.

Which is endorsed on the back thereof as follows:

No. 84. United States *vs.* Schooner "W. P. Sayward." Waiver. Filed September 19, 1887. H. E. Haydon, clerk, by A. A. Meyer, deputy clerk. W. Clark, proctor for owners.

28 Be it further remembered that on the said 19th day of September, 1887, the following further proceedings *was* had in said court in said cause:

In the Matter of THE UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } No. 84.

This cause having been tried and submitted, the court, from the evidence, finds the following facts and conclusions of law:

29 1st. That on the 9th day of July, 1887, and theretofore, the master and crew of the defendant vessel were engaged in killing and did kill fur seals in that portion of Bering Sea ceded by Russia to the United States by the treaty of March, 1867, and within the waters of Alaska, in violation of section 1956 of the Revised Statutes of the United States, and that the promiscuous shooting of fur-bearing animals in the waters adjacent to the islands of St. Paul and St. George and in that portion of Behring Sea east of 193d degree of west longitude has a tendency to frighten and prevent the said animals from going upon these islands as they have been accustomed in the past.

2nd. That on the said 9th day of July, 1887, said vessel,
30 her furniture, apparrel, tackle, cargo, and 477 fur-seal skins were seized in said waters by the commanding officer of the United States revenue cutter Rush, then and there engaged in the Revenue Marine Service of the United States.

3rd. That said commanding officer was duly commissioned by the President of the United States and made such seizure under the direction and by the authority of the Treasury Department of the United States.

4th. That said property so seized was delivered by said commanding officer of said cutter to the United States marshal of the district of *of* Alaska and is now within the jurisdiction of the court.

As conclusions of law the court finds that the plaintiff is entitled to a decree of forfeiture against said vessel, her tackle,
31 apperral, furniture, cargo, and the said 477 fur-seal skins.

Be it further remembered that on said 19th day of September, 1887, the following further proceeding was had in said court in said cause, to wit:

In the Matter of THE UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } Motion in Ar-est.

At this time comes W. Clark, Esq., proctor for claimants, and files a motion in arrest of the decree of forfeiture in said cause, which motion was denied by the court.

(Which motion is in the words and figures following, to wit:)

32 In the United States District Court for the District of Alaska.

UNITED STATES
vs.
BRITISH SCHOONER "W. P. SAYWARD." } No. —. Motion in Ar-est.

At this time comes W. Clark, proctor for claimants, and moves the court to ar-est the decree of forfeiture in said cause for the following reasons, to wit:

1st.

That the libil of information herein does not state facts sufficient in law to enable the United States to have and maintain this action for the forfeiture of the property seized herein.

2nd.

That the evidence produced on the part of the United States in this cause is not sufficient upon which to base a decree of forfeiture.

33 3rd.

That from the evidence produced on the part of the United States it appears that this court has no jurisdiction over the subject-matter of this cause.

4th.

That the act of Congress under which the seizure herein was made is contrary to the spirit of international law and *ultra vires*, in that it purports to give the United States jurisdiction over a portion of the high seas more than three marine leagues from its shores, and purports to establish an international boundary line in mid-ocean with no definite terminal points and impossible to determine by absolute measurement or clearly defined by marks; there-
34 fore claimants pray that said decree may be forever ar-ested and this cause dismissed.

W. CLARK,
Proctor for Claimants.

Which is endorsed in words and figures following, to wit:
No. 84. United States *vs.* Schooner "W. P. Sayward." Motion in ar-est. Filed Sept. 19th, 1887. H. E. Haydon, clerk, by A. A. Meyer, deputy clerk. W. Clark, proctor for claimants.

And the following decree of forfeiture was ordered:

In the Matter of THE UNITED STATES
vs.
SCHOONER W. P. SAYWARD and J. D. WARRAN and A. LAING. } No. 84. Decree.

The marshal having returned on the monition issued to
35 him in the above-entitled action that in obedience thereto he had attached the said schooner W. P. Sayward, her tackle,

apperal, boats, cargo, and furniture, and proctor for claimants, on behalf of said owners, having waived said owners' right to publication and posting of the notice of the libel and seizure, and also time of hearing, and has given due notice to all persons claiming the same to appear before this court on the 19th day of Sept., 1887, at 11 o'clock a. m., at the district of Alaska, United States of America, then and there to interpose their claims and make their allegations in that behalf, and Geo. R. Ferry, the captain of said vessel, having heretofore filed a claim to all of said property in behalf of J.
36 D. Warren and Andrew Laing, of Victor-a, B. C., and no other persons having appeared and no other claims or allegations having been made or filed by any other person or persons, and the usual proclamation having been made, and said cause having been heard this day, by consent of parties, on the pleadings and proofs—M. D. Ball, Esq., U. S. dist. att'y, by A. K. Delaney, Esq., of counsel in that behalf, appearing as advocate for the said libelant, and W. Clark, Esq., as advocate for said claimants—and said cause having been submitted to the court for decision and due deliberation being had in the premises, and the court having filed his findings and conclusions of law herein, it is now thereupon ordered,
37 sentenced, and decreed as follows:

1st. That all persons who-soever other than said claimants be, and they are hereby, decreed in contumacy and default.

2nd. That said schooner W. P. Sayward, her tackle, apperal, vats, and furniture, and her cargo of 472 fur-seal skins, now in the custody of the deputy U. S. marshal at Oualaska, and all property found upon or appertenant to said schooner be, and the same are hereby, condemned as forfeited to the use of the United States.

3rd. That unless an appeal be taken to this decree within the time limited and prescribed by law and the rules of court the usual writ of *venditioni exponas* will be issued to the marshal, command-
38 ing him to sell all the said property and bring the proceeds into this court, to be distributed according to law.

Costs to be taxed and are awarded against said claimants.

Be it further remembered that on the 9th day of December, 1887, the following further proceedings was had in said court in said cause:

In the Matter of THE UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } No. 84.

Petition filed by W. Clark, Esq., proctor for claimants, for leave to appeal. It is considered and ordered by the court that leave be granted.

39 Which petition is in words and figures following, to wit:

In the United States District Court for the District of Alaska.

UNITED STATES *vs.* BRITISH SCHOONER "W. P. SAYWARD."	No. —.	Petition for Leave to Appeal.

And now comes W. Clark, proctor for claimants, and prays the court for leave to appeal this cause to the Supreme Court of the United States or such other court as may have appel-ate jurisdiction over the subject-matter of this cause.

W. CLARK,
Proctor for Claimants.

Endorsed as follows:

No. 84. United States *vs.* Schooner "W. P. Sayward." Pe-
40 tition for leave to appeal. Filed Dec. 9th, 1887. H. E. Haydon, cl'k. W. Clark, proctor for claimants.

Be it further remember-d that on said 9th day of Decembe-, 1887, the following further proceeding was had in said court in said cause:

In the Matter of THE UNITED STATES *vs.* SCHOONER W. P. SAYWARD.	No. 84.

Motion filed by W. Clark, Esq., proctor for claimants, for a stay of proceedings for three months.

It is considered and ordered by the court that the motion be overruled.

Which motion is in words and figures following:

41 In the United States District Court for the District of Alaska.

UNITED STATES *vs.* BRITISH SCHOONER "W. P. SAYWARD."	No. —.	Motion for Stay of Proceedings.

And now comes W. Clark, proctor for claimants, and moves the court to grant a stay of proceedings herein to enable claimants to bond the property seized herein if they desire to do so.

Dated at Sitka, this 3 day of October, A. D. 1887.

W. CLARK,
Proctor for Claimants.

Which is endorsed as follows:

No. 84. United States *vs.* Schoon- "W. P. Sayward." Motion for stay of proceedings. Motion filed, and over-uled by court Dec. 9th, 1887. H. E. Haydon, cl'k. W. Clark, proctor for claimants.

42 Be it further remembered that on the 12th day of December, 1887, the following further proceeding was had in said court in said cause, to wit:

In the Matter of THE UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } No. 84.

It is ordered by the court that the United States marshal for the district of Alaska sell the schooner W. P. Sayward, her boats, tackle, apparrel, furniture, and cargo of four hundred and seventy-four fur-seal skins, seized and condemned by the decree herein as forfeited to the United States, and to secure a better market said marshal is
43 authorized to take said property out of the district of Alaska and to Port Townsen, Seattle, or Tacoma, on Puget Sound, in the district of Washington Territory, and then make said sale, after having advertised the time and place thereof, as required by law, for at least 30 days, and that he pay out of the proceeds of said sale the costs and expense of insuring, carcing for, transportation, and sale of said property and apply the balance of said proceeds as required by law, and report to this court his doings in the premises.

Be it further remembered that on the said 12th day of December, 1887, the following writ of *venditioni exponas* was issued:

In the United States District Court for the District of Alaska.

44 UNITED STATES
vs.
SCHOONER W. P. SAYWARD, HER BOATS, TACKLE, APPARREL, & CARGO. } No. 84. Writ of *Venditioni Exponas.*

The President of the United States of America to the marshal of the district of Alaska, Greeting:

Whereas a libel hath been filed in the district court of the United States for the district of *of* Alaska on the 15th day of September, in the year of our Lord one thousand eight hundred and eighty-seven, by M. D. Ball, United States district attorney, against the schooner W. P. Sayward, her tackle, apparrel, and furniture and cargo, civil and maritime, for the reasons and causes in said libel mentioned,
45 and praying the usual process and monition of the said court in that behalf to be made, and that all persons interested in the said schooner, her tackle, apparrel, and furniture and cargo, may be cited in general and special to answer the premises, and, all proceedings being had, that the said schooner, her tackle, &c., may, for the causes in the said libel mentioned, be condemned as forfeited to the use of the United States, and praying that the same may be condemned and sold to answer the prayer of the said libelants; and whereas the said schooner and cargo have been attached by the process issued out of the said district court in pursuance of the said libel and are now in custody by virtue thereof, and
46 such proceedings have been thereupon had that by a definite sentence and decree of said court, made and pronounced on the 19th day of September, 1887, and an order of sale of

said the court in this cause, made on the 12th day of December, 1887, the said vessel, her tackle, apperrel, and furniture and cargo, consisting of 477 fur-seal skins, were ordered on the said 12th day of December, 1887, to be sold by you, the said marshal, on Puget Sound, in Washington Territory, after giving at least 30 days' notice of such sale, and that you pay the proceeds of such sale to the clerk of this court, as required by law: Now, therefore, you will execute said decree and order and return this writ and report the manner in which you have executed this order to this court.

47 Witness the Honerable Lafayette Dawson, judge of said court, at the city of Sitka, in the district of Alaska, this 12th day of December, in the year of our Lord one thousand eight hundred and eighty-seven, and of our Independence the one hundred and twelfth.

[L. S.] H. E. HAYDON, *Clerk.*

Which is endorsed on the back thereof as follows, to wit:

No. 84. The United States *vs.* Schooner W. P. Sayward. Writ of *venditioni exponas.* Retu-ned & filed May 8, 1889. H. E. Haydon, clerk.

And further endorsed with following return:

DIST. OF ALASKA:

I hereby certify and return that in obedienc- to the within order I did proceed to Puget Sound with the sch'r W. P. Sayward

48 on the 11th day of Jan'y, 1888, but that by a subsequent order of this court I did deliver the said vessel to her owners on a bond issued to this court.

BARTIN ATKINS,
U. S. Marshal.

Be it further remembered that on the 21st day of December, 1887, the following further proceedings was had in said court in said cause, to wit:

In the Matter of the Seal Skins of Schooner W. P. Sayward (Among Others). No. 84.

At this time comes W. Clark, proctor, intervencing for and in behalf of the owners of the above-named vessels, and prays the court to appoint appraisers to appraise the value of the seal skins

49 seize- and taken from said vessels.

It is considered and ordered by the court that the motion be overruled.

Which said motion is in the words and figures following, to wit:

In the United States District Court for the District of Alaska.

UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } Motion to Appoint Appraisers.

At this time comes W. Clark, proctor, intervening for and in behalf of the owners of the above-named vessel, and prays the court to appoint appraisers to appraise the value of the seal skins seized and taken from the said vessel by the United States, with the view
50 to paying into the hands of this court the value of said seal skins, as the same may be appraised, or offering such bonds for the payment of such value as may be approved by this court.

W. CLARK,
Proctor for Claimant-.

Which is endorsed as follows, to wit:
No. 84. United States *vs.* Schooner W. P. Sayward. Motion to appoint appraisers. Filed Dec. 21, 1887. H. E. Haydon, clerk. W. Clark, proctor for claimants.

Be it further remembered that on the 30th day of December, 1887, the following order was made by the dist. judge:

In Chambers.

In the Matter of Seal Skins Seized on Board Vessels in Bering Sea.

51 The order heretofore made by this court for the U. S. marshal to sell the seal skins seized on board the schooners at some place on Puget's Sound is hereby revoked, and it is ordered by the court that said skins be sold at Sitka, in the district of Alaska.

Be it remembered that on the 14th day of April the following further proceeding was had in said court in said cause, to wit:

In the Matter of THE UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } No. 84.

Now comes M. P. Berry, proctor for claimants, and moves the court for leave to file a motion for renewed leave to ap-
52 peal said cause to the Supreme Court of the United States.

It is considered and ordered by the court that the motion be overruled.

Which said motion is in words and figures following, to wit:

In the United States District Court for the District of Alaska. Hon. Lafayette Dawson, Judge. Special Term.

THE UNITED STATES, Pl'tf,
vs.
THE BRITISH AMERICAN SCHOONER W. P. SAYWARD and CARGO, Defen'ts.
} No. —. Motion for Renew-d Leave to Appeal.

Comes now M. P. Berry, proctor, intervening for and in behalf of the owners and claimants of the above-named vessel and
53 cargo, and prays this hon. court for renewed leave to appeal said cause to the Supreme Court of the United States.

M. P. BERRY,
Proctor for Owners.

Which is endorsed as follows, to wit:

In the United States district court for the district of Alaska. Hon. L. Dawson, judge. Special term. No. 84. The United States, pl'tf, *vs.* The British American Schooner W. P. Sayward & Cargo, def'ts. Motion for renewed leave to appeal. Filed in open court April 14th, 1888. H. E. Haydon, cl'k. W. P. Berry, proctor.

Be it further remembered that on the 16th day of April, 1888, the following further proceeding was had in said court in said cause, to wit:

54 In the Matter of THE UNITED STATES
vs.
SCHOONER W. P. SAYWARD.
} No. 84.

The ruleing heretofore made on April 14th, 1888, denying the motion for leave to perfect an appeal to the Supreme Court, is hereby re-cinded, prayer of the peti-oner is granted, and permission is given to appeal.

In the Matter of the Appointment of Appraise-s to Appraise the Cargo-s of Certain Vessels to be Sold on or after April 18, 1888.

And now comes W. M. Grant, United States district attor-
55 ney, and moves the court for the appointment of appraisers to appraise the seal skins seized from certain vessels now in the custody of the United States marshal and ordered to be sold on or after April 18, 1888.

Whereupon the court appointed Jeff. J. Kuehn, Edwin Chamberlain, and George Kostrometinoff as such appraisers to appraise the value of all fur-seal skins now in the custody of the United States marshal impartially and to the best of their ability, and to render a report of their doings to this court.

Whereupon the appraisers were sworn by the clerk of the court as to the faithful performanc- of their duties.

Be it further remembered that on the 19th day of April,
56 1888, the following further proceeding was had in said court in said cause:

In the Matter of the Report of the Appraisers.

Now come the appraisers heretofore appointed by the court to appraise the value of the fur-seal skins seized from certain vessels and render the following report:

To the honerable district court for the district of Alaska:

The undersigned, appraisers, appointed by your honerable court and sworn to appraise the value of the fur-seal skins seized from certain vessels now in the custody of the United States marshal, ordered to be sold on or after April 18th, 1888, beg to state
57 that they have appraised the value of said seal skins as follows, to wit:

(Among others.)

Schooner W. P. Sayward.

50 sacks, sup-osed to contain 477 salted seal skins, $2,374.25.

(And among other property.)

(Appraise- of other schoone-s.)

All of which is respectfully submitted.
Dated Ap-il 19, 1888.

JEFF. J. KUEHN.
GEORGE KOSTROMETINOFF.
EDWD CHAMBERLAIN.

The appraisers of the seal skins having filed their report and shown to the satisfaction of the court that they were entitled to receive payment for four days' labor each—

It is hereby ordered that they be paid $5.00 per day each, together with any expences which they incur-d for labor in handling
58 the said skins, said amount to be paid out of money accruing from the sale of said seal skins.

Be it further remembered that on the 19th day of April, 1888, the following written consent of the U. S. dist. attorney was filed, which is in words and figures following, to wit:

In the United States District Court in and for the District of Alaska.

UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } No. 84. Consent that Vessel be Discharge- on Stipulation.

The schooner W. P. Sayward, her small boats, tackle, apparrel, arms, am-unition, furniture, and cargo, consisting of 477 fur-seal

skins, having been arrested on the prosess issued in this cause,
59 we consent that on filing the usual stipulation, entered into according to the rules of the court, to appear, abide, and perform the decree, in the sum of seven thousand two hundred sixty-eight and $\frac{75}{100}$ dollars ($7,268\frac{75}{100}$), and on filing a claim, and on complying with the rules of the court as to the fees of the officers of the court, the said schooner be discharged from custody and ar-est.

Dated April 19, 1888.

WHIT. M. GRANT,
Proctor for Libelant.

Which is endorsed as follows:

No. 84. United States *vs.* W. P. Sayward. Consent that vessel be discharged on stipulation. Filed April 19, 1888. H. E. Haydon, clerk.

Be it further remembered that on said 19th day of April,
60 1888, the following further proceeding was had in said court in said cause, to wit:

In the Matter of THE UNITED STATES *vs.* SCHOONER W. P. SAYWARD. } No. 84.

Now comes M. P. Berry, proctor for claimant, and moves the court for leave to file stipulation for appraised value of the schooner W. P. Sayward, her tackle, apparrel, small boats, furniture, arms, am-unition, and cargo, consisting of 477 fur-seal skins.

Which stipulation is in words and figures following, to wit:

In the United States District Court in and for the District of Alaska.

61 UNITED STATES *versus* THE SCHOONER W. P. SAYWARD and Thomas Henry Cooper and 479 Fur-Seal Skins. } No. 84. Stipulation for Appraised Value.

Whereas a libel of information was filed in the within cause on the 13th day of September, 1887, in the above court by the Honorable M. Ball, U. S. district attorney for the district of Alaska, against the schooner W. P. Sayward, her tackle, apparrel, furniture, and cargo, for the reasons and causes in said libel mentioned and set forth; and whereas a decree of forfeiture was on the 19th day of September, 1887, rendered against the said vessel, her tackle, apparrel, furniture, and cargo, and against Thomas Henry Cooper, of San Francisco, intervencing as the sole and only claimant to
62 said vessel, tackle, apparrel, furniture, and cargo; and whereas the said vessel, tackle, apparrel, furniture, and *and* cargo are now in the custody of the U. S. marshal for the said district of Alaska under process issued from this court and in pursuance of the prayer of the said libel; and whereas the value of the said vessel, her tackle,

apparrel, furniture, and cargo, has been appraised at $7,289.50, as appears by the report of the appraisers, duly appointed and sworn by this court, and on file herein; and whereas the said Cooper, claimant as aforesaid, is desirous of and purposes appealing from the said decree of this honorable court:

Now, therefore, we, the undersigned, the stipulators, submitting ourselves to the jurisdiction of this court, do acknowledge ourselves to be bound unto the United States of America, the said claim-
63 ant, Thomas Henry Cooper, as principal, and Bailey Gatzert and Jacob Furth, as sureties, jointly and sever-l-y, in the sum of $7,289.50, lawful money of the United States, hereby consenting and agreeing that a sum-ary decree may be rendered against us and each of us for the above-appraised value, with interest thereon from this date, and that execution may thereon issue against our goods, chattles, and lands for the payment thereof or any part thereof — shall be ordered or decreed—

Upon condition, nevertheless, that if the undersigned stipulators shall prosecute their said appeal without unnec-ssary delay and abide by any final decree that may be rendered by the Supreme Court of the United States of America, to which this cause be appealed, and, in the event of the said decree of this honorable
64 court being affirmed by such court of appellate jurisdiction, then, if said stipulators pay the amount named in this stipulation into this court, this stipulation to be void; otherwise to remain in full force and virtue.

Witness our hands this 31st day of March, A. D. 1888.

THOMAS HENRY COOPER.
By JAMES DOUGLAS WARREN,
His Attorney-in-Fact.
BAILEY GATZERT.
J. FURTH.

TERRITORY OF WASHINGTON, } ss:
Third Judicial District, }

In the District Court of the Third Judicial District, Holding Terms at Seattle.

Bailey Gatzert and Jacob Furth, the persons named in and who subscribed the foregoing undertaking as the sureties thereto,
65 being severally duly sworn, each for himself says he is worth the amount specified in said undertaking as the penalty thereof over and above all just debts and liabilities, exclusive of property exempt from execution.

BAILEY GATZERT.
J. FURTH.

Subscribed and sworn to before me this 31st day of March, 1888.

W. E. LEDGERWOOD,
[L. S.] *Clerk District Court Third Judicial District of Washing. Territory.*

The sufficiency of the sureties of the foregoing bond is hereby approved.

R. A. JONES,
[L. S.] *District Judge Third Judicial District of Washington Territory.*

Approved this 19th day of April, 1888.

LAFAYETTE DAWSON,
District Judge.

66 Attached to such stipulation is the following, to wit:

SEATTLE, WASH. TERR'Y, *March* 31, 1888.

To Captain Jas. Douglas Warren, attorney-in-fact for Thos. Henry Cooper, managing owner of the following-named vessels, viz., steam sch'n'r "Anna Beck," sch'n'r "W. P. Sayward," steam sch'n'r "Dolphin," steam sch'n'r "Grace."

SIR: This is to certify that we, the undersigned, having subscribed to certain bonds for the appraised value of each of the above-named vessels, the tackle, apparrel, furniture, machinery, and cargo, all of which to be filed in the district court for the district of Alaska, of which bonds certain dates were blank at the time of execu-
67 tion, do hereby authorize you, or whoever shall present the said bonds to be filed in said district court of Alaska, to fill said blanks by inserting the proper dates when ascertained from the records of said district court.

Dated at Seattle, Wash. Terr'y, the 31st day of March, 1888.

BAILEY GATZERT.
JACOB FURTH.

Which said stipulation is endorsed as follows, to wit:

No. 84. In the United States district court in and for the district of Alaska. United States *vs.* Schooner W. P. Sayward. Stipulation for appraised value of vessel and cargo. Filed and approved April 19, 1888. H. E. Haydon, clerk.

The following bond for costs was also filed, to wit:

68 In the United States District Court in and for the District of Alaska.

UNITED STATES *versus* THE SCHOONER W. P. SAYWARD and Thomas Henry Cooper and 479 Fur-Seal Skins.	No. —.	Bond for Costs.

Know all men by these presents that we, Thomas Henry Cooper, a citizen of the United States of America, resident of San Francisco, California, and James Douglas Warren, of the city of Victor-a, British Columbia, my lawful agent and attorney-in-fact, and Bailey Gatzert and Jacob Furth, citizens of the United States of America

and resid-nts of the city of Seattle, in Washington Territory, are held and firmly bound unto the above-mentioned United States of America in the sum of $300.00, lawful money of the United
69 States, to be paid into the district court in and for the district of Alaska or unto the clerk thereof upon the order of the judge of such court; for the payment of which, well and truly to be made, we bind ourselves and each of us, our heirs, administrators, and executors, jointly and severally, firmly by these presents.

Sealed with our seals and dated the 31st day of March, 1888.

Whereas in the U. S. district court in and for the district of Alaska a decree of forfeiture having been declared in the above-entitled action:

Now, therefore, the condition of the above obligation is such — if the above-named plaintiff herein recover from the defendants the costs and accrued costs in said action, we, the undersigned,
70 are bound unto the United States of America for all and ev-ry such costs and accrued costs herein related.

THOMAS HENRY COOPER, [L. S.]
By JAMES DOUGLAS WARREN, [L. S.]
His Attorney-in-Fact.
J. D. WARREN. [L. S.]
BAILEY GETZERT. [L. S.]
JACOB FURTH. [L. S.]

Approved April 19th, 1888.
H. E. HAYDON, *Clk.*

TERRITORY OF WASHINGTON, } ss:
Third Judicial District, }

In the District Court of the Third Judicial District, Holding Te-ms at Seattle.

Baily Getzert and Jacob Furth, the persons named in and
71 who subscribed the foregoing undertaking as the sureties -hereto, being severally sworn, each for himself says that he is worth the amount specified in said undertaking as the penalty thereof over and ab-ve all just debts and liabilities, exclusive of property exempt from execution.

BAILEY GATZERT.
JACOB FURTH.

Subscribed and sworn to before me this 31st day of March, 1888.

[L. S.] W. E. LEDGERWOOD, *Clerk.*

The sufficiency of the sureties of the foregoing bond is hereby approved.

[L. S.] R. A. JONES,
Judge of the District Court, Third Judicial District of Washington Territory.

Which is endorsed as follows:

No. 84. In the United States district court in and for the district of Alaska. United States *vs.* Schooner W. P. Sayward. Bond for costs. Filed and approved April 19, 1888. H. E. Haydon, clerk.

72 (*Order of Court Continued.*)

Upon examination of the stipulations it is ordered by the court that the same be approved, and whereupon the court issued the following order, viz:

The stipulation of the claimant herein, with sufficient surety, having been filed and approved, it is ordered that the above-named vessel and all her tackle, apparel, furniture, arms, am-unition, and cargo, consisting of 477 fur-seal skins, received in this port by the United States marshal for the district of Alaska, be released, and that the same *to* (be) turned over to J. D. Warren, Esq., attorney-in-fact for the claimant herein.

(Signed) LAFAYETTE DAWSON,
District Judge.

The clerk of the court was ordered to issue orders on the
73 United States marshal for the district of Alaska to deliver the schooner W. P. Sayward and her cargo to J. D. Warren, Esq., attorney-in-fact for the claimant herein.

In the Matter of THE UNITED STATES *vs.* SCHOONER W. P. SAYWARD. } No. 84. Withdrawing Sale of Cargo.

It is ordered that the marshal withdraw from the sale advertised to take place on or after April 18, 1888, the cargo of the schooner W. P. Sayward, consisting of 477 fur-seal skins.

In the Matter of THE UNITED STATES *vs.* SCHOONER W. P. SAYWARD. } No. 84.

74 It is ordered that the clerk of the court prepare a certified copy of the registry of the schooner W. P. Sayward and file the same with the exhibits and deliver the original to Capt. J. D. Warren.

It is ordered that the defendants perfect their appeal to the Supreme Court of the United States by May 17, 1888, or as soon thereafter as the mail steamer may arrive.

Be it further remembered that on the 27th day of April, 1888, the following further proceedings was had in said court in said cause, to wit:

In the Matter of THE UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } No. 84.

75 Now comes M. P. Berry, proctor for claimant, and moves the court for leave to file affidavit on appeal and appeal to the Supreme Court of the United States.

It is considered and ordered by the court *take* (that) l-ave be granted.

Which affidavit is in the words and figures following, to wit:

In the United States District Court, District of Alaska.

UNITED STATES
vs.
SCHOONER W. P. SAYWARD and THOMAS HENRY COOPER. } No. 84. Affid-vit on Appeal.

UNITED STATES, *District of Alaska,* } *ss:*

76 Personally appeared before me, the undersigned, clerk of the district court in and for the district of Alaska, Jas. Douglas Warren, who, being first duly sworn, upon his oath says he is the duly authorized agent for claimant in the above-entitled cause.

That said claimant purpose- appealing said cause to the Supreme Court of the United States.

That he purpose- prosecuting said appeal with due diligence and without unnecessary delay.

That he is appealing said cause for the reason that he feels himself ag-rieved and injurred by the decree of the district court rendered herein on the 19th day of September, A. D. 1887, at a special term of said court.

That said appeal is not taken for vexitious delay or to
77 hinder or delay the United States in obtaining the proceeds of the said decree of forfeiture rendered herein, but that the law and the facts may be review-d by the said superior court, and that this appeal is made by affiant for and in behalf of said claimant.

JAMES DOUGLAS WARREN.

Subscribed to and sworn before me this 19th day of April, 1888.

H. E. HAYDON,
[L. S.] *Clerk U. S. Dist. Court.*

Which is endorsed as follows, to wit:

No. 84. In the United States district court, district of Alaska. United States *vs.* Schooner W. P. Sayward. Affidavit on appeal. Filed in open court Ap-il 27, 1888. H. E. Haydon, cl'k.

78 Which petition for appeal is in the words and figures following, to wit:

In the United States District Court in and for the District of Alaska.

UNITED STATES *vs.* SCHOONER W. P. SAYWARD and THOMAS HENRY COOPER.	No. 84. Appeal to the Supreme Court of the U. S. In Admiralty.

To the honorable Supreme Court of the United States of America:

The appeal of the above-named appellant respectfully showeth that on or about the 13 day of September, in the year one thousand eight hundred and eighty-seven, the above-named libelants, The United States of America, exhibited their libel in the district
79 court of the United States for the district of Alaska against the appellant for the reasons set forth in said libel, that the appellant might be condemned to pay the demands of said libelants, and costs in said libel mentioned.

That process issued out of said court having been served on the appellant, he did, on or about the 15th day of September, 1887, file his answer to said libel in the said district court, praying that the said libel be dismissed, with his costs in that behalf, as by reference to the said libel and the said answer may more fully appear.

That the said cause came on to be heard before the Honorable Lafayette Dawson, judge of the said district court, on or about
80 the 19th day of September, 1887, upon the testimony and proofs adduced by the respective parties, and the said judge, having advised thereon, did, on the 19th day of September, 1887, make his decree in said cause, whereby it was, among other things, decreed that the libelants in said cause recover against the appellant a decree of forfeiture against said vessel, her tackle, apparel, furniture, cargo, and 477 fur-seal skins, as by reference to the said decree may more fully appear.

And the appellant is advised and insists that the said decree is erroneous, inasmuch as the honorable court at such sitting did not declare the law unconstitutional by which such seizure and forfeiture of property was made.

81 Wherefore the appellant appeals from the whole of said decree of said district court of the United States, and respectfully prays that the decree of the said district court and the bill, answer, pleadings, evidence, and proceedings in the said cause may be sent to the Supreme Court of the United States without delay, and that the said Supreme Court will proceed to hear the said cause anew, and that the said decree of the district court and every part thereof may be reversed and a decree made dismissing said libel with costs, or such other decree as to the said Supreme Court shall seem just.

Dated April 26th, 1888.

M. P. BERRY,
Solicitor for Appellant.

Which is endorsed as follows:

82 No. 84. In the United States district court in and for the district of Alaska. United States *vs.* Schoone- W. P. Sayward.

Appeal to the Supreme Court of the United States. In admiralty. Filed April 27th, 1888, in open court. H. E. Haydon, cl'k. M. P. Berry, solicitor for appellant.

Be it further remember-d that on said 27th day of April, 1888, the following further proceedings was had in said court in said cause, to wit:

UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } No. 84. Order Granting Appeal.

Upon hearing and filing petition of M. P. Berry, practor, intervening for and in behalf of the owner of the ab-ve-named vessel and cargo, through and by authority of J. D. Warren, Esq.,
83 the duly authorized agent of the said owner, praying for an order allowing him to appeal this cause to the Supreme Court of the United States; and upon hearing and filing the affidavit of J. D. Warren, the duly authorized agent for claimant in the above-entitled cause, and no objection being raised on the part of the United States, and sufficient security having been given by said claimant that he will prosecute said appeal to effect, and upon being fully advised in the premises, it is ordered that said petition be granted and said claimant allow-d to appeal this cause.

Done at Sitka, Alaska, this 27th day of April, 1888.

(Signed) LAFAYETTE DAWSON,
District Judge.

84 Be it further remembered that on the said 27th day of April, 1888, the defendant-filed their bill of exceptions, which is in the words and figures following, to wit:

85 In the United States District Court in and for the District of Alaska.

UNITED STATES
vs.
SCHOONER W. P. SAYWARD, of British Columbia. } No. 84. Bill of Exceptions.

Be it remembered that on the trial of this cause, the same being the 19th day of September, 1887, in the district court of the United States for the district of Alaska, holden at Sitka, in the aforesaid district, and at the November term thereof, the Government, to sustain the issue on its part, offered the following evidence to the court, viz:

I am Capt. L. G. Sheppard, named in the libel of information, in command of revenue cutter "Rush." I know the schooner W. P. Sayward. I am the officer under whose direction she was seized. The seizure was made in lat. 54° 43′ N., 167° 51′ W.

86 The seizure was made about 59 miles from Cape Cheerful. The vessel was lying when seized upon waters between Ounalaska and Prityloff Islands, in Behring Sea. It was made on July 9th, 1887, 50 m. p. m.

The schooner was first boarded by Lieuts. David A. Hall and Th-s. W. Benham, under my direction. After they left the "Rush" they returned, bringing Capt. Ferry. The vessel had on board 485 —, as informed me by the captain; in tallying out at Ounalaska found only 477 fur-seal skins.

After Capt. Ferry'- arrival on board the Rush I asked him the nature of his voyage. He said hunting and sealing.

How long he had been in Behring sea. He said 4 days.

How many seal skins on board. He said 485.

By which pass had he come in. Said Pass of the Four Mountains.

87 Had he taken any seal in Behring Sea. He said, "Yes; sixty-four."

Didn't he know he had no right to take seal in Behring Sea. He said he did not know.

This conversation occurred on 9th July. At this conversation Lieut. D. A. Hall was present with myself and Capt. Ferry.

(Counsel offers witness package of papers for identification.)

Are those documents and papers pertaining to this vessel taken by you and your officers in the seizure?

(Argument read.)

They are.

Capt. SHEPPARD: Found the vessel under short sail; one canoe and two Indians out hunting seal. The canoe came alongside and Indians went on board; vessel was in our immediate charge from Saturday to Tuesday, during which time I had frequent conversations with Capt. Ferry and mate, but no intimation was made that they had not taken seal.

88 (Chart exhibited, and Capt. Sheppard identified place of seizure thereon.)

Cross-examined by Mr. CLARK:

Did you check the number of seals?

One of my officers checked over the number of seals on board; did not check them personally.

From what department were your instructions to seize the vessel?

From the Treasury Department.

Have you these instructions?

I have.

What were you to do after making the seizures?

I don't know that my instructions cover this particular case; but the law requires us to turn over the property, when seizure is made, to the nearest port where the district court is held.

Did you do this?

I did to the best of my ability with the force I had at my command. The vessels *was* sent here and the skins kept at

89 Ounalaska.

Had you any special instructions from your department to break cargo on these vessels?

I have no special instructions, but followed the precedent of last year, as far as I know.

Then your sole reasons for leaving those skins in Ounalaska were the precedents of last year?

No, sir; but for the safe keeping of the skins. The skins were seized near Ounalaska, and I have no special instructions as to disposing of them. There was a deputy U. S. marshal at Ounalaska authorized to receive the skins and I delivered them to him and sent the vessel to Sitka.

At the same time you knew that the law required you to send them here?

I don't know the law.

90 I thought you did your duty according to law?

We have to be governed by circumstances in Alaska.

In whose charge did you leave the skins?

In charge of Isaac Anderson, deputy U. S. marshal.

Did you deliver them to him personally at once?

They were delivered to him as soon as landed.

That was all you had to do with it?

That was all I had to do with the skins.

Can you give me the exact words of Capt. Ferry in your first conversation after he came aboard, when you asked him if he had killed any fur seal in Behring Sea.

I do not know what the exact words were, but I understood him to convey the meaning that he had killed 64 seals in Behring Sea.

91 Did you examine these skins personally?

No, sir; I saw them when they were passed out of the vessel; did not examine them minutely.

You stated in your examination-in-chief that there was a canoe out hunting seals.

Yeas, sir.

How do you know?

Capt. told me that was his business.

How do you know this canoe was out hunting seals?

I have seen other canoes out hunting seal and seen them shooting seals.

You do not know positively that this canoe was hunting seal?

I presume of my own knowledge that they were.

By the COURT: Had they any implements on board for hunting seal?

The canoes were hoisted aboard and I could see nothing.

92 Do you remember what sort of weather it was when you made this capture?

The weather was not bad. I think a light westerly breeze.

What had it been previous?

We might not have had the same weather, as we were in a different place, and position makes a great difference in the weather in Behring Sea.

Mr. Delaney first offered in evidence certificate of registery of schooner W. P. Sayward; official number of ship, 83446; also agreement on account of crew, same vessel, No. 23716; clearance C., May 14, '87, and bill of health, May 14, '87.

Re-examined by Mr. DELANEY:

Were the waters on which this vessel was seized navigable *from* waters for vessels of ten or more tons burden?

Yes, sir.

THOS. A. BENHAM examined by Mr. DELANEY:

93 I am one of the officers of the revenue cutter "Rush," and am mentioned in the testimony of Capt. Sheppard as one of the boarding officers sent to the vessel. I had very little conversation with Capt. Ferry. I heard him admit to Lieut. Hall that he had been killing seal nearly all the way from the pass of the Four Mountains up to where we found him. The statements were made in reply to Lieut. Hall'- questions, who carried on the conversation. Afterwards Lieut. Hall and Capt. Ferry went to the Rush and I remained with "Sayward." I was on deck awaiting arrival of canoe. When she came alongside she was empty. I remarked to Laing that they were pretty well educated. He said if they had had any seal skins on board she would have brought them aboard. She had implements on board for the purpose of catching seals, and two Indians.

94 Cross-examined by Mr. CLARK:

Can you give me the words used by Capt. Ferry?

I can only give you the purport, which was that he had been killing seal at every chance he had, all the way up from the pass.

When did this conversation take place, and where were you?

In the cabin, sitting. Mr. Hall was also sitting.

You were busy noting down the seizure at the time?

Yes, sir.

Can you remember the words Capt. Ferry used when you told him the Indians seem- pretty well educated?

No, sir; there was no particular meaning to the words.

What did you mean?

95 I meant that the sight of the smoke might induce them to throw the skins overboard. The purport of the answer was that they were out killing seal. I don't remember what was said. I only remember the substance of it.

DAVID A. HALL examined by Mr. DELANEY:

I am Lieut. Hall spoken of. He said that he'd taken seal from the entry of the pass in Behring Sea—in the Behring Sea. He said two or three times that he had taken 64 seals in Behring Sea.

Cross-examined by Mr. CLARK:

Did you check the skins?
Yes.
What condition were they in?
Some were fresh—quite clear and soft.
How long does it take a seal to become discolored by salt?
I do not know.

BARTON ATKINS, U. S. marshal, examined by Mr. DELANEY:

The log book- were brought ashore. I do not remember
96 this one was brought ashore; two or three were brought together.

In the trial of the sealer cases Capt. Sheppard, commander of the revenue cutter "Rush," engaged — cruising in Behring Sea, testified that shooting and the method of taking seals pursued by said seized vessels tendered to drive them from their usual haunts and breeding and raising grounds in Behring Sea, which evidence was used and considered in the trial and decision of this cause; to which the defendant then and there objected; and, the objection being overruled and the evidence admitted, the defendant there and then excepted to the ruling of the court and the law as declared by the court, and the court found as follows, to wit:

1st. That on the 9th day of July, 1887, and theretofore the
97 master and crew of defendant's vessel were engaged in killing and did kill fur seals in that portion of Behring Sea ceded by Russia to the United States by the treaty of March, 1867, and within the waters of Alaska, in violation of section 1956 of the Revised Statutes of the United States, and that the promiscuous shooting of fur-bearing animals in the waters adjacent to the islands of St. Paul and St. George and in that portion of Behring Sea east of 193d degree of west longitude has tendency to frighten and prevent the said animals from going upon those islands as they have been accustome- in the past.

2d. That on the said 9th day of July, 1887, said vessel, her furniture, apparel, tackle, cargo, and 477 fur-seal skins, were seized in
98 said waters by the commanding officer of the United States revenue cutter "Rush," then and there engaged in the *in the* Revenue Marine Service of the United States.

3d. That said commanding officer was duly commissioned by the President of the United States and made such seizure under the direction and by the authority of the Treasury Department.

4th. That said property so seized was delivered by said commanding officer of said cutter to the United States marshal of the district of Alaska and is now within the jurisdiction of the court.

As conclusions of law the court finds that the plaintiff is entitled to a decree of forfeiture against said vessel, her tackle, apparel, furniture, cargo, and the said 477 fur-seal skins.

To all which the defendant there and the- objected.

LAFAYETTE DAWSON,
District Judge.

99 The certificate of registery (*a*), agreement on account of crew (*b*), clearanc- C. (*c*), and bill of health (*d*), referred to in the foregoing bill of exceptions, are as follows, to wit:

100

(Here follow certificate of registry and agreement on account of crew, marked pp. 101, 102, 103, and 104.)

105 (*c*) C. 7.

PORT OF VICTORIA, B. C.

Clearance. These are to certify to all whom it doth concern that Geo. R. Ferry, master of the sch. W. P. Sayward, burthen 60 tons, navigated with 7 men, British built, and bound for North Pacific Ocean and Behering Sea, having on board ballast & stores and fishing apparatus for a fishing & hunting voyage—

CUSTOMS CANADA. MAY 14, 1887. VICTORIA, B. C.

[L. S.]

—hath here entered and cleared his said vessel according to law. Given under my hand, at the custom-house, at port of Victoria, in the Province of B. C., this 14th day of May, one thousand eight hundred and eighty-seven.

GEO. FLINE, *Surveyor.*

106 [Endorsed:] Filed Sept. 19, 1887. H. E. Haydon, clerk, by A. A. Meyer, deputy clerk.

107 (*d*) (Scrole.)

DOMINION OF CANADA.

Bill of Health.

CUSTOM-HOUSE, PORT OF VICTORIA, B. C.

To all whom these presents shall come:

Whereas the sch. W. P. Sayward, of Victoria, of which G. R. Ferry is master, is now ready to depart from the port of Victoria for N. P. Ocean & Behering Sea and other places beyond the sea, with 7 persons, including the master of this vessel—

I therefore by these presents do make known and certify that no plague nor any other dangerous or contagious disease at present exists in the said port.

Given under my hand and seal of office this 14th day of May, 1887.

GEO. FLINE, [L. S.]
F. Collector of Customs.

108 [Endorsed:] Filed Sept. 19, 1887. H. E. Haydon, clerk, by A. A. Meyer, deputy clerk.

109 Be it remembered that on the 2d day of May, 1888, the following further proceedin-s was had in said court in said cause, to wit:

In the Matter of Rulings Made in the Case of THE UNITED STATES *vs.* SCHOONER W. P. SAYWARD, on April 14 and 16, 1888.

The orders of these respective dates are hereby rescinded so as not to affect the petitioner's right to appeal to the Supreme Court of the United States, and the aforesaid orders are expunged from the record.

Be it further remembered that on the 18th day of July,
110 1888, the following further proceedings was had in said court in said cause, to wit:

UNITED STATES *vs.* SCHOONER W. P. SAYWARD. } No 84.

Comes now M. P. Berry, Esq., attorney for Henry Thomas Cooper, and moves the court for leave to file a motion showing that Henry Thomas Cooper is now the sole and only owner of the schooner W. P. Sayward and cargo, which schooner and cargo *was* decreed as forfeit*ure*d to the United States October 11, 1887; and further prays the court that the record in the above-entitled cause be amended so as to substitute the name of Henry Thomas Cooper instead
111 of James Douglas Warren.

Which motion was considered by the court. It is ordered that the same be filed *nunc pro tunc*, and that the name of Henry Thomas Cooper be interposed as the actual owner of the schooner W. P. Sayward and cargo.

Which said motion is in words and figures following, to wit:

In the United States District Court for the District of Alaska.

Hon. L. Dawson, judge.

THE UNITED STATES, Pl'tf, *vs.* THE BRITISH COLUMBIA SCHOONER W. P. SAYWARD, Def't.	No. 82 (84). Motion for Leave to Interpose the Name of the Actual O-ner of said Vessel — Defendant (*nunc pro tunc*).

Now comes Henry W. Cooper and shows to the court that
112 the claim of ownership in this cause is in the name of J. D. Warren; that the interest of J. D. Warren has been transfer-ed to your petitioner and said Warren has no further interest in this suit, and your petitioner asks to have his name substituted as claimant and defendant in the place and stead of the said J. D. Warren, and that said substitution be entered *nunc pro tunc* as of the 16th day of April, 1888, the same being an open court day of the special term of this court, February, 1888, and that the clerk of the court be instructed and ordered to make an entry accordingly upon the court journal and docket.

HENRY W. COOPER,
Non-Resident,
By M. P. BERRY, *Attorney.*

113 Which is endorsed as follows, to wit:

In the United States district court for district of Alaska. Hon. L. Dawson, judge. In chambers. No. 84. Motion to substitute name of owner *nunc pro tunc*. The United States, pl'ff, *vs.* The British Columbian Schooner W. P. Sayward, def't. Filed July 18, 1888. H. E. Haydon, clerk. M. P. Berry, attorney.

Be it further remembered that on the 8th day of May, 1889, Bartin Atkins, U. S. marshal for said district, returned and filed the following ce-tified copies of orders of court to him issued, with his returns endorsed thereon, to wit:

(A.)

In the United States District Court, District of Alaska. In Chambers.

114 SITKA, ALASKA, *December* 30, 1887.

In the Matter of Seal Skins Seized on Board of Vessels in Behring Sea. No. 84.

The order heretofore made by this court on the 12th day of December, 1887, for the United States marshal to sell the seal skins seized on board the schooner W. P. Sayward at some place on Puget Sound is hereby revoked, and it is ordered by the court that said skins be sold at Sitka, in the district of Alaska.

(Signed) LAFAYETTE DAWSON,
District Judge.

THE UNITED STATES OF AMERICA, } ss:
District of Alaska, }

I, H. E. Haydon, clerk of the United States district court for the district of Alaska, do hereby certify that the foregoing
115 copy of the order of the court relative to the seal skins made on the 30th day of December, 1887, has been by me compared with the original, and that it is a co-ect transcript therefrom and of the whole of such original, as the same appears of record at my office and in my custody.

In testimony whereof I have hereunto set my hand and
[L. S.] affixed the seal of said court, at Sitka, in said district, this 7th day of February, 1888.

H. E. HAYDON, *Clerk.*

Which is endorsed:

84. Seal skins seized with schooner W. P. Sayward. Order returned and filed May 8, 1889. H. E. Haydon, clerk.

116 And endorsed thereon is the following return:

DIST. OF ALASKA:

I hereby certify and return that prior to the date of sale of the within-named property belonging to the W. P. Sayward that the same was delivered to J. D. Warren on a subsequent order of this court.

BARTIN ATKINS,
U. S. Marshal.

(B.)

At a stated term, to wit, the special February term, A. D. 1887, of the district court of the United States of America in and for the district of Alaska, held at the court-room in the town of Sitka, on Thu-sday, the 19th day of April, in the year of our Lord one thousand eight hundred and eighty-eight.

117 Present: The Hon. Lafayette Dawson, judge U. S. district court.

In the Matter of the Cargo of the Schooner W. P. Sayward. No. 84.

It is ordered that the marshal withdraw from the sale advertised to take place on or after April 18, 1888, the cargo of the schooner W. P. Sayward, consisting of 479 fur-seal skins.

I hereby certify that the foregoing is a full, true, and correct copy of the order of the court in the matter of the cargo of the schooner W. P. Sayward entered in the above-entitled cause.

Attest my hand and seal of said district court this 19th day of April, A. D. 1888.

[L. S.] H. E. HAYDON, *Clerk.*

118 Which is endorsed as follows:

No. 84. U. S. circuit court, district of Alaska. Sch. W. P. Sayward. Filed May 8, 1889. H. E. Haydon, clerk.

And endorsed thereon is the following return, to wit:

DIST. OF ALASKA:

I hereby certify and return that the cargo belonging to the schr. W. P. Sayward, as herein described, was withdrawn from the marshal's sale of Ap'l 19th, '88.

BARTIN ATKINS,
U. S. Marshal.

(C.)

At a stated term, to wit, the special February term, A. D. 1888, of the district court of the United States of America in and for the district of Alaska, held at the court-room, in the town of
119 Sitka, on Thursday, the 19th day of April, in the year of our Lord one thousand eight hundred and eighty-eight.

Present: The Hon. Lafayette Dawson, judge U. S. district court.

In the Matter of THE UNITED STATES
vs.
THE SCHOONER W. P. SAYWARD. } No. 84.

To the marshal of the district of Alaska.

SIR: The above-named vessel and all her tackle, apparrel, furniture, arms, am-unition, and cargo, consisting of 479 fur-seal skins, that have been received by you in this port having been
120 bonded and ordered released by the judge of the above court, you will therefore discharge the said vessel, her tackle, apparrel, furniture, arms, am-unition, and cargo, consisting of 479 fur-seal skins, so received by you, and deliver the same to J. D. Warren.

I hereby certify that the foregoing is a full, true, and correct copy of the order of the court in the case of The U. S. *vs.* The Schooner W. P. Sayward entered in the above-entitled cause.

[L. S.] Attest my hand and seal of said district court this 19 day of April, A. D. 1888.

H. E. HAYDON, *Clerk.*

Which is endorsed as follows, to wit:

No. 84. U. S. circuit court, district of Alaska. Order to
121 discharge sch. W. P. Sayward. Filed May 8, 1889. H. E. Haydon, clerk.

And endorsed thereon is the following return:

DIST. OF ALASKA:

I hereby certify and return that the schooner W. P. Sayward was delivered to J. D. Warren in accordance with this order of the court.

BARTIN ATKINS,
U. S. Marshal.

Be it further remembered that on the 20th day of May, 1889, the following further proceedings was had in said court in said cause—the Hon. John H. Keatley, judg- district court—to wit:

122 In the Matter of the UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } No. 84.

Now comes Bartin Atkins, United States marshal for the district of Alaska, and returns the writ of *venditioni exponas* issued by order of this court February 10, 1888 (Dec. 12, 1887), and makes the following return in presence of Whit. M. Grant, United States district attorney: That prior to the date of sale of the property belonging to the W. P. Sayward that the same was delivered to J. D. Warren on a subsequent order, and that in obedience to the writ he proceeded to Puget Sound with the schr. W. P. Sayward; that by a
123 subsequent order of this court he did deliver the said vessel to her owners on a bond issued to this court.

Be it further remembered that on the 29 day of August, 1889, the following further proceedings was had in said court in said cause, to wit:

THE UNITED STATES
vs.
SCHOONER W. P. SAYWARD. } No. 84.

Now, at this day, comes M. P. Berry, Esq., attorney for Thomas Henry Cooper, and moves the court to file a petition for the restitution of money paid by the United States marshal of the district of Alaska over to and at this time in possession of the clerk of this court.

It is considered and ordered by the court that leave be
124 granted to file the petition.

Which motion is in the words and figures following, to wit:

In the United States District Court for the District of Alaska.
May Term, 1889.

Hon. John H. Keatly, Judge.

THE UNITED STATES, Pl'f,
vs.
THE BRITISH COLUMBIA SCHOONER W. P. SAYWARD, Def't. } Motion for Leave to File Petition.

Comes now M. P. Berry, one of the attorneys of record in the above-entitled cause, and on behalf of Thomas Henry Cooper, the sole and only owner of the defendant schooner above named—

Moves this hon. court for leave to file a petition for restitu-
125 tion of money paid by the United States marshal of the district of Alaska over to and at this time in pos-ess-on of the clerk of this court.

M. P. BERRY,
Att'y for Defendant.

Endorsed as follows:

#84. In the U. S. dist. court, dist. of Alaska. The United States *vs.* The British Columbia Schooner W. P. Sayward. Motion for leave to file petition. Filed August 29th, '89. H. E. Haydon, clerk. M. P. Berry, def't's att'y.

Which petition is in the words and figures following, to wit:

In the United States District Court in and for the District of Alaska.
May Term, 1889.

Hon. John H. Keatly, judge.

THE UNITED STATES, Pl't'f,
vs.
THE BRITISH COLUMBIA SCHOONER W. P. SAYWARD, Def't.
} Petition for Restitution of Money.

126 Your petitioner respectfully shows to the hon. court the following:

1st. That the defendant, the above-named vessel, cargo, and other appertenances, were seized on the 9th day of July, 1887, for an infraction of certain laws of the United States pertaining to the killing of fur seals within certain watters or seas claimed by plaintiff ab-ve named.

2nd. That after such seizure said defendant vessel, with cargo and other belongings, was adjudged guilty, duly confiscated, and ordered to be sold by the United States marshal for the district of Alaska.

3d. That on April 14th 1888, leave was granted defendant's owner, one Thomas Henry Cooper, of San Francisco, California, to
127 appeal the cause from this hon. court to the Supreme Court of the United States.

4th. That on April 19th, 1888, a satisfactory bond was filed with the clerk of this court, an- an order for the release of the seized property was given and accepted.

5th. That certain property belonging to said defendant's schooner at the time of the delivery by the United States marshal of Alaska to the agent of said owner was overlooked and not delivered.

6th. That afterward the said United States marshal sold at public auction the said certain property of defendant, consisting principal-y of powder, shot, wads for guns, and empty shells, realizing
128 therefrom the amount of $35\frac{81}{100}$, lawful money of the United States.

7th. That the said United States marshal did pay over to the clerk of this court the full sum of money so realized from such sale of defendant's property, viz., the sum of thirty-five & $\frac{81}{100}$ dollars.

Now, therefore, the said Thomas Henry Cooper aforesaid, owner of the said vessel heretofore described, prays this hon. court for an order, directed to the said clerk of the court, to pay over said sum of money, viz., $35\frac{81}{100}$, to himself or his attorney of record, and for any *or* other relief that may seam meet.

M. P. BERRY,
Attorney for Claimant.

Which is endorsed as follows, to wit:

129 # 84. In the United States district court for the district of Alaska. Hon. John H. Keatly, judge. May term, 1889. The United States, pl'tf, *vs.* The British Columbia Schooner W. P. Sayward, def't. Petition for restitution of money. Filed Aug. 29, 1889. H. E. Haydon, clerk. M. P. Berry, petitioner's att'y.

Be it remembered that on the 2d day of September, 1889, the following further proceeding was had in said court in said cause:

In the Matter of THE UNITED STATES *vs.* SCHOONER W. P. SAYWARD. } No. 84.

130 Now, on this 2d day of September, 1889, comes the claimant, Thomas H. Cooper, by his attorney, M. P. Berry, Esq., and presents his petition, asking an order of court upon the clerk of the same to pay over the sum of thirty-five ($835\frac{81}{100}$) dollars to the said claimant as the proceeds of certain powder, shot, and firing-shells belonging to the schooner W. P. Sayward, seized and condemned for the unlawful taking of seals in Bering Sea, and from which decree of condemnation an appeal was taken to the Supreme Court of the United States and an appeal bond filed and all of said seized and condemned property released by the order of the court, and which powder, shot, and firing-shells, after said order of

131 release and the filing of said appeal bond, was sold by the United States marshal and the proceeds thereof, the said thirty-five and $\frac{81}{100}$ dollars, paid over to the said clerk of this court. Upon considering said petition and the records of the court in said case of the United States against the said schooner W. P. Sayward and the said claimant, Thomas H. Cooper, the court finds the following facts:

1st. That said powder, shot, and firing-shells were among the personal property on board the W. P. Sayward at the time of the seizure and was embraced in the decree of condemnation.

2nd. That after said decree of condemnation the claimant filed his appeal bond in an appeal to the Supreme Court of the United States and thereby perfected said appeal.

132 3rd. That said appeal is now pending in the *in the* Supreme Court of the United States.

4th. That said personal property, powder, shot, and shells, was, upon the filing of said bond, ordered restored to the said claimant.

5th. That subsequent to the filing of said bond and the said order of restoration the United States marshal sold said powder, shot, and shells for the sum of thirty-five $\frac{81}{100}$ dollars and paid the gross proceeds of said sale to the clerk of this court.

6th. That after said bond was filed and said order made and before said sale and after the restoration of all the other property included in said seizure to the claimant, no demand was made upon the marshal for the restoration or redelivery of said powder, shot, and shells.

133 As a conclusion of law it is then considered that after said appeal was perfected by the claimant to the Supreme Court of the United States this, the district court of Alaska, had no further jurisdiction of the cause and has now no jurisdiction to make any further order concerning said personal property or the proceeds thereof, and the petition of the said claimant respecting the said thirty-five $\frac{81}{100}$ dollars is hereby dismissed without any prejudice to his right to make a similar application to the Supreme Court of the United States, where the appeal is pending.

134 Be it further remembered that on the 10th day of September, 1887, there was filed in the clerk's office in said district—which is among the files in said cause—an affidavit of A. Laing, which, together with the agreement thereon written, is in the words and figures following, to wit:

135 UNITED STATES)
vs.
SCHOONER W. P. SAYWARD.)

Andrew Laing, being duly sworn, says he was mate & trader on board British schooner "Sayward."

I sailed from Victoria on May 16th, 1887, clearing for the North Pacific and Behring Sea. We killed all seals found on board before we reached Behring Sea; arrived in Behring Sea on or about July 2nd, 1887, entering the sea by the pass known as the "Four Mountains."

We were taken by the revenue cutter "Rush" on July 9th, 1887; did not take any seals in Behring Sea, the weather being thick and the wind blowing hard.

When seized we were in latitude 54 41, longitude 167 51.

Mr. Laing desires his log-book, now in custody of the U. S. marshal, — be put in as testimony in the case.

136 & 137 Our vessel cleared from Victoria for the purpose of fishing and sealing.

A. LAING.

Sworn to and subscribed before me this 10th day of September, 1887.

[SEAL OF C'T.] H. E. HAYDON,
Clk U. S. Dist. Court.

It is hereby stipulated and agreed that the foregoing affidavit shall go before the court as the testimony of A. Laing.

Dated Sept. 10, 1887.

A. K. DELANEY,
Att'y for United States.
M. W. TRYWHITT DRAKE,
Att'y for W. P. Sayward.

(Which paper is endorsed as follows:)

No. 84. In the United States district court, district of Alaska. The United States *vs.* Schooner W. P. Sayward. Affidavit of Andrew Laing. Filed September 10, 1887. H. E. Haydon, clerk, by A. A. Meyer, deputy clerk.

138 Be it further remembered that on the 19th day of September, 1887, there was filed in said cause what purports to be notes of the evidence in said cause, and which is now among the files in said cause, which is in the words and figures following, to wit:

139 For the Prosecution.

(84. *Testimony In Re "W. P. Sayward."*)

By Mr. DELANEY:

I am Capt. L. G. Shepard, named in libel of information, in command of revenue cutter Rush. I know the schooner W. P. Sayward. I am the officer under whose direction she was seized. The seizure was made in lat. 54° 43′ N., 167° 51′ W. The seizure was made about 59 miles from Cape Cheerful. The vessel was lying when seized upon waters between Ounalaska and Prybiloff Island, in Behring Sea. It was made on July 9th, 1887, 50 m. p. m. The schooner was first boarded by Lieuts. David A. Hall & Thos. W. Benham, under my direction. After they left the Rush they returned, bringing Capt. Ferry. The vessel had on board 485 —, as informed me by the captain; in tallying out at Ounalaska found only 477. After Capt. Ferry's arrival on board the Rush I asked him the nature of the voyage. He said hunting and sealing. How long he had been in Behring Sea. He said 4 days. How
140 many seal skins on board. He said 485. By which pass had he come in. He said Pass of the Four Mountains. Had he taken any seal in Behring Sea. He said, "Yes; sixty-four." Didn't he know he had no right to take seal in Behring Sea. He said he did not know it. This conversation occurred on 9th July. At this conversation Lieut. D. A. Hall was present, with myself & Capt. Ferey.

(Counsel offers witness package of papers for identification.)

Are those the documents & papers pertaining to the vessel taken by you and your officers in the seizures (agreement read)?

They are. Capt. Shepard found the vessel under short sail; one canoe and two Indians out hunting seal. The canoe came alongside and Indians went on board. Vessel was in our immediate charge from Saturday to Tuesday, during which time I had frequent conversations with Capt. Ferey & mate, but no intimation was made that they had not taken seal.

141 (Chart exhibited and Capt. Shepard identified place of seizure thereon.)

Cross-examined by Mr. CLARK:

Did you check the number of skins?

One of my officers checked over the number of seals on board; did not check them personally.

From what department were your instructions to seize the vessel?

From the Treasury Department.

Have you these instructions?

I have.

What were you to do after making the seizures?

I don't know that my instructions cover this particular case; but the law requires us to turn over the property, when seizure is made, to the nearest port where the district court is held.

Did you do this?

I did to the best of my ability with the force I had at my command. The vessel was sent here and the skins kept in Ounalaska.

Had you any special instructions from your department to break cargo on these vessels?

I had no special instructions, but followed the precedent of last year as far as I know.

142 Then your sole reasons for leaving those skins in Ounalaska was the precedent of last year?

No, sir; but for the safe keeping of the skins. The skins were seized near Ounalaska, and I had no special instructions as to disposing of them. There was a deputy U. S. marshal at Ounalaska authorized to receive the skins, and I delivered them to him & sent the vessels to Sitka.

At the same time you knew that the law required you to send them here?

I don't know the law.

I thought you said you did according to law?

We have to be governed by circumstances in Alaska.

In whose charge did you leave the skins?

In charge of Isaac Anderson, deputy U. S. marshal.

Did you deliver them to him personally at once?

They were delivered to him as soon as landed.

That was all you had to do with it?

That was all I had to do with the skins.

Can you give me the exact words of Capt. Ferey in your first conversation after he came on board, where you asked him if he had killed any fur seal in Behring Sea?

143 I do not know what the exact words were, but I understood him to convey the meaning that he killed 64 seals in Behring Sea.

Then you—did you examine these skins personally?

No, sir; I saw them when they were passed out of the vessel; did not examine them minutely.

You stated in your examination-in-chief that there was a canoe out hunting seals.

Yes, sir.

How do you know?

Capt. told me that was his business.

How do you know this canoe was out hunting seals?

I have seen other canoes out hunting seal and seen them shooting seals.

You do not know positively that this canoe was hunting?

But I presume of my own knowledge that they were.

By the COURT: Had they any implements on board for hunting seal?

The canoes were hoisted aboard and I could see nothing.

144 Do you remember what sort of weather it was when you made this capture?

The weather was not bad. I think a light westerly breeze.

What had it been previous?

We might not have had the same weather, as we were in a different place, and position makes a great difference in the weather in Behring Sea.

Mr. Delaney first offers in evidence certificate of registery of schooner W. P. Sayward; official number of ship, 83446; also agreement on account of crew, same vessel, No. 23716; clearance C. T., May 14, '87, and bill of health, May 14, '87.

Re-examined:

Mr. DELANEY: Were the waters on which this vessel *were* seized navigable *from* waters for vessels of ten or more tons burden?

Yes, sir.

THOS. A. BENHAM examined by Mr. DELANEY:

I am one of the officers of the revenue cutter Rush, and am mentioned in the testimony of Capt. Shepard as one of the boarding officers sent to the vessel. I had very little conversation with Capt. Ferey. I heard him admit to Lieut. Hall that he had been

145 killing seal nearly all the way from the pass of the Four Mountains up to where we found him. The statements were made in reply to Lieut. Hall's questions, who carried on the conversation. Afterwards Lieut. Hall & Capt. Ferry went to the Rush and I remained with Sayward. I was on deck waiting arrival of canoe. When she came alongside she was empty. I remarked to Laing that they were pretty well educated. He said if they had had any seal skins on board she would have brought them aboard. She had implements on board for the purpose of taking seals, and two Indians.

Cross-examined by Mr. CLARK:

Can you give me the words used by Capt. Ferey?

I can only give you the purport, which was that he had been killing seal at every chance he had all the way up from the pass.

When did this conversation take place, and where were you?

In the cabin, sitting. Mr. Hall was also sitting.

You were busy noting down the seizure at the time?

146 Yes, sir.

Can you remember the words Capt. Ferey used when you told him the Indians seemed pretty well educated?

No, sir; there was no particular meaning to the words.

What did you mean?

I meant that the sight of the smoke might induce them to throw the skins overboard. The purport of the answer was that they were out killing seal. I don't remember what was said. I only remember the substance of it.

Lieut. Hall.

Mr. DELANEY:

I am Lieut. Hall spoken of. He said that he'd taken seal from the entry of the pass in Behring Sea—in the Behring Sea. He said two or three times that he had taken 64 seals in Behring Sea.

Cross-examined by Mr. CLARK:

Did you check the skins?

Yes.

147 What condition were they in?

Some were fresh, quite clear & soft.

How long does it take a seal to become discolored by salt?

I do not know.

Marshal Atkins.

By Mr. DELANEY:

The log books were brought ashore. I do not remember when this was brought ashore. Two or three were brought together.

For the Defence.

Counsel introduces log book of Sayward kept by mate.

Examined by Mr. CLARK:

On the 9th of July last I was in 54° 43′ N. I was seized on that day by cutter Rush in Behring Sea; had been 6 days in the sea; entered on the 2nd through the west end of Oonamak. We had been within from 2d to 9th. From the time we entered

148 to the time we were captured no seal were caught. I told Mr. Hall in conversation that we had killed 64 seal on the last day.

(Log book handed to witness to state where entry was.)

The last day we killed we were in 52° 30′ & 168° 23′. We took no observation. We were about thirty miles S. of Oonamak, in North Pacific Ocean.

By the COURT:

Made no observation that day; knew our position by dead reckoning.

By Mr. CLARK:

1st July, in the morning.

(Here counsel reads entry from log book.)

The log book was taken from me in Sitka. It is the original log book of consecutive entries. They are correct an- true; did not always make entry in log book when we killed seal.

Cross-examined by Mr. DELANEY:

You got through the pass on the 2d & were in the sea on the 9th.
What were you doing all the time?
149 We had rains and thick weather and were laying to.
The best weather for sealing is foggy weather?
No, sir.
Did you on board your ship, in the presence of Mr. Hall & Mr. Benham, say you had caught 64 seal in Behring Sea?
No, sir.
Did you deliver the log book to the marshal?
No, sir; he sent aboard for it.
You don't know of your own knowledge when these entries were made by the mate? Will you undertake to swear that this entry was made on the day the seals were taken?
Yes, sir.
How do you know?
I was there.
Did you see the entry made?
No, sir.
The mate is registered as holding $\frac{64}{100}$ of this vessel?
Yes, sir.
From the time your vessel was taken, on the 9th July,
150 until you parted company with the Rush, did you deny that you had been taking any seal in Behring Sea?
No, sir.

Re-examined by Mr. CLARK:

Is it not customary for captains to examine their log daily?
Yes.

By the COURT:

Where do you belong when you're at home?
Channel Islands.

(Which paper is endorsed as follows:)
No. 84. United States *vs.* Schooner "W. P. Sayward." Evidence. Filed Sept. 19, 1887. H. E. Haydon, clerk, by A. A. Meyer, deputy clerk.

151 & 152 Be it further remembered that the following is a true copy of the log book, together with the endorsements thereon, filed as in said cause 19th Sept, 1887:

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1				E. N. E.						On Tuesday, *of* February 15, 1887.
2										
3										At 11h. 30m. a. m. weighed up anchor from Cpt. Warren's wharf and proceeded out. This day ends at noon to commence a sea log February 16, 1886. At 11h. 30m. p. m. Cape Flattery bore south, distance about 8 miles; at 4 a. m. fresh E. S. E. winds, & Cape Beale bore N. b. E., distance about 5 miles; hove to till daylight; at 6 a. m. sailed on her for Barclay Sound; at 7h. 30m. a. m. came into Barclay Sound.
4			W. ½ S.							
5										
6										
7										
8				E. S. E.						
9										
10										
11										
12										
1										
2										Wednesday, 16 day February, 1887.
3			W. b. N.							At 5 p. m. moved alongside the wharf at Echoole and took in our water.
4										
5										
6										
7										Remarks on Thursday, February 17th, 1887.
8										
9										At 9 a. m. removed from the Echoole wharf and proceeded for Village Island in tow with the Ana Beck; at 3 p. m. came to an anchor at Village Island.
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal of the Schooner W. P. Sayward, &c.—Continued.

1887. H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1				East.						On February, day of 18th, 1887.
2										Lying in Village Island; at 10 a. m. proceeded for Dodger's Cove; at 1 p. m. brought with our best bower in 2½ fathoms of water with 20 fathoms of chain.
3										
4										
5										
6										
7										Remarks on Saturday, February 19th, 1889.
8				S. E.						Vessel still lying at anchor, and fixing gear for canoes.
9										
10										
11										Remarks on Sunday, February 20th, 1887.
12										Indians came on board to see how many canoes we wanted.
1										
2										
3										Remarks on Monday, Feb. 21st, 1887.
4										Snowing hard; wind N. E.; at 6 p. m. blowing strong; let go the second anchor.
5										
6										
7										
8										Remarks on Tuesday, Feb. 22d.
9										Snow and rain; strong breeze from S. E.; at noon more moderate; took in the canoes on board.
10				S. E.						
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1										
2	--	----	----------	East.						On Wednesday, day of 23 February, 1887.
3										At 6 a. m. snow and wind; vessel still lying at anchor in Dodger's Cove.
4										
5										
6	---	----	----------	N. E.						Remarks on Thursday, Feb. 24, 1887.
7										
8										At 10 a. m. weighed up anchor and proceeded for Village Island for nails for the canoes and water; getting ready for fine weather to proceed to sea; at 2 p. m. brought up in Village Island with our best bower in 9 fathoms of water with 30 fathoms of chain.
9										
10	---	----	----------	West.						
11										
12										
1										
2										
3										
4	---	----	----------	S. W.						Remarks on Friday, Feb. 25th, 1887.
5										
6										Strong S.W. winds and rain throughout the day.
7										
8										
9										Remarks on Saturday, Feb. 26th.
10	---	---	----------	S. E.						Strong S. E. gale & rain. Sunday, 27 Feb., continuation of bad weather.
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from the Schooner W. P. Sayward towards the Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1				S. W.						
2										
3										On Monday, day of 28 February, 1887.
4				Westerly.						
5										Strong breeze and rain; at 6 p. m. more moderate.
6										
7										
8										
9										
10										Remarks on Tuesday, March 1st, 1887.
11										
12										Fresh breeze & cloudy weather; at 4 p. m. fine and clear.
1				N. E.						
2										
3										
4										
5										Remarks on Wednesday, March 2d.
6										
7										At 8 a. m. weighed up anchor and proceeded out; at noon took in the canoes in middle channel. This day ends at noon to commence a sea log.
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	5		S. b. E.	N. E.						On Thursday, day of March 3d, 1887.
2	6									
3	1									At 1h. 30m. p. m. Cape Beale E. b. N., dist. about 4 miles.
4	1									
5	2									
6	2		South.							At 3, light airs and a heavy westerly swell.
7	3									
8	4									
9	4									At 6 p. m. Cape Beale bore N. E., dist. about 12 miles.
10	4									
11	5									
12	5									
1	1		W. b. N.			4				At midnight, strong winds; hove her to, heading W. b. N., with the single-reef foresail.
2	1					"				
3	1					"				
4	1					"				
5	1					"				Variation 28° E.
6	1					"				
7	1					"				
8	1					"				At 8 a. m. set jib and main trysail.
9	2		E. b. N.			2				
10	3					"				At noon, strong breeze & clear weather.
11	3					"				
12	3					"				

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					47 53 N.	28° E.			125° 2 W.

						47 53 N.	28° E.				125° 2 W.

Journal from the Schooner W. P. Sayward towards the Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	1		W. S. W.	N. W.						
2	1									
3	1									
4	1									
5	1									On Friday, day of March 4, 1887.
6	1									
7	1			South.						P. M., at 8 wind shifting N. W. & cloudy; vessel hove to, her head W. S. W.
8	4									
9	4									
10	5			S. W.						
11	5									At midnight, rain and strong breeze.
12	5									
1	5		N. W.							
2	5									At 6 a. m. sighted land; wore her and set double-reef mainsail and reefed jib and double-reef foresail.
3	5									
4	5									
5	5									
6	5									
7	5									At noon Cape Flattery bore N. 6 E., distance 10 miles.
8	5									
9	5									
10	5									
11	5									
12	5									

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1				S. W.						Saturday, day of March 5th, 1887.
2										P. M., fresh gale and a very heavy sea; at 3 p. m. anchored in Neeah Bay in 6 fathoms of water with our best bower and 30 fathoms of chain.
3										
4										
5										
6										
7										Remarks on Sunday, March 6th, 1887.
8										
9										Strong winds and weather overcast throughout the day.
10										
11										
12										Remarks on Monday, March 7th, 1887.
1										
2										Strong gale and rain throughout.
3										
4										Remarks on Tuesday, March 8th, 1887.
5				South.						Continuation of same weather.
6										At 3 p. m. increasing gale; let go our second bower with 20 fathoms of chain.
7										
8										
9										Remarks on Wednesday, March 9th, 1887.
10				S. E.						Fresh gale and heavy rain throughout the day.
11										
12				S. S. E.						

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from the W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1				S. W.						Thursday, day of 10 March, 1887.
2										
3										P. M., fresh gale & rain throughout.
4										
5										
6										Remarks on Friday, 11 March, 1887.
7										
8										P. M., fresh winds and a heavy cross-sea; vessel still lying at anchor in Neeah bay; at noon hove the second bower.
9										
10				S. E.						
11										
12										Remarks on Saturday, March 12, 1887.
1										
2										P. M., fresh breeze and a heavy sea; at 9 a. m. weighed up anchor and proceeded for Barclay Sound; at 3 p. m. brought up in Village Island with our second bower and 30 fathoms of chain.
3										
4										
5										
6										
7				South.						
8										Remarks on Sunday, March 13th, 1887.
9										
10										Strong breeze & rain; crew employed getting water on board.
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	---	---	S. -------	S. W.						
2										On Monday, day of 14 March, 1887.
3										P. M., strong breeze & rain.
4										
5										
6										Remarks on Tuesday, March 15th, 1887.
7										
8										Continuation of same weather till the 17th.
9										
10										Remarks on Friday, March 18th, 1887.
11										
12										At noon weighed up anchor and proceeded for Dodger's Cove; at 2 p. m. brought up in the cove with our best bower & 25 fathoms of chain.
1										
2										
3										
4										
5										Remarks on Saturday, March 19th, 1887.
6										
7										Strong wind & rain throughout.
8										
9										Remarks on Sunday, March 20th, 1887.
10										
11										Fresh breeze & clear weather throughout.
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from the W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1				N. E.	Light.					
2										
3										
4										
5										
6										On Monday, day of 21 March, 1887.
7										
8										At 7 a. m. weighed up anchor and proceeded out with 13 canoes for the sealing grounds.
9										
10										
11										
12										
1										
2										
3										At noon hove to for and put the canoes outside. This day ends at noon to commence a sea log.
4										
5										
6										
7										
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	1	4	S. S. E.	N. E.		2			30m. 20	
2	1	4				"				On Tuesday, day of 22d March, 1887.
3	1	4				"				P. M., light breeze & south sea.
4	1	4				"				
5	1					"				At 6 p. m. war ship round.
6	1					"				
7	1		N. b. W.			"				Caught 19 seals.
8	1					"				
9	1					"				At midnight wear round.
10	1					"				
11	1					"				
12	1					"				At 5 a. m. wear her round.
1	1		S. E.			"				
2	1					"				
3	1					"				At 6 a. m. wear round and set sail.
4	1					"				
5	2					"				
6	3		North.			0				At 8.30 a. m. hove to and put the canoes over the side.
7	3		S. S. E.			"				
8	4					"				
9	1					2				Variation 22° 30′ E.
10	1					2				
11	1					2				
12	1					2			30 + 5	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					48 3	22 30 E.			125°+ 32′ W.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	1	---	N. N. W. --	N. E.						
2	1									Wednesday, day of 23 March, 1887.
3	1	---	----------	West.						
4	1									P. M., light breeze & clear weather.
5	1									
6	1									
7	1									At 3 wind came round west.
8	1									
9	1									
10	1									
11	1									At 6 p. m. fresh breeze & drizzling rain.
12	1									
1	1									
2	1									Caught 11 seals.
3	1									
4	1									
5	1									At 8 a. m. put the canoes over the side.
6	1									
7	1									
8	1									At noon Cape Flattery bore N. E. & Cape Beale N. b. E.
9	1									
10	1									
11	1									
12	1	---	----------	----------	----------	----------	----------	----------	30in. 20	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					48° 16′ N.	22° 30′	----------	----------	125° 46′ W.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	---	---	---	W. N. W.						
2										
3	---	---	Hove to.							
4										
5										
6										On Thursday, day of March 24, 1887.
7										
8										P. M., light winds and smooth water.
9										
10										
11										Caught 60 seals.
12										
1										At 6 a. m. schooner Anna Beck in company.
2										
3										
4										
5										At noon light winds and smooth sea.
6										
7										
8										
9										
10										
11										
12	---	---	---	---	---	---	---	---	30.20	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					48 11 N.	22.30	---	---	125 21 W.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	---	---	W. S. W. --	South - ---						
2										
3										Friday, 25 day of March, 1887.
4										
5										P. M., calm & smooth sea.
6										
7										Caught 42 seals.
8										
9										At 6 p. m. Mountain Chief in company.
10										
11										At midnight strong west winds.
12	---	---	N. N. W.							Vessel lying to head N. N. W.
1										
2										At 6 a. m. strong breeze & heavy sea; set double-reef mainsail & proceeded for Barclay Sound.
3										
4										
5										At 8 a. m. Mary Taylor in company.
6										
7										At noon brought up in Village Island with our best bower & 30 fathoms of chain.
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1				S. W.						
2										On Saturday, day of 26 March, 1887.
3										
4										P. M., strong winds & rainy.
5										
6										
7										At 3 p. m. weighed up anchor and proceeded to Dodger's Cove in tow with the Anna Beck; at 5 p. m. brought up in Dodger's Cove with our best bower & 25 fathoms chain.
8										
9										
10										
11										
12										
1										
2										Remarks on Sunday, March 27th.
3										
4										Strong S. W. wind & rain.
5										
6										No sealing weather.
7				South.						
8										Remarks on Monday, March 28th, 1887.
9										
10										Strong breeze & rain at times throughout these 24 hours.
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1										
2										On Tuesday, day of 29 March, 1887.
3										
4										Fresh wind from the S. W.; barometer, 29″.60.
5										
6										
7										Remarks on Wednesday, March 30.
8										
9										At 5 a. m. weighed up anchor & proceeded for the sealing grounds.
10										
11										
12										At 2 p. m. lowered canoes.
1										
2										At 6 p. m. took in canoes; caught 25 skins.
3										
4										Remarks on Thursday, March 31st, 1887.
5										
6										At 6 a. m. took in two canoes from the Black Di-mond.
7										
8										
9										Strong breeze & mist, rain; barometer, 30.
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1				South.					29.50	
2										On Friday, *April*, day of 1 April, 1887.
3										
4										P. M., wind freshening from the south.
5										
6										At 11 p. m. double-reef foresail & reef jib.
7										
8										
9										At midnight fresh gale and rain; vessel labouring heavily.
10										
11										
12										At 4 a. m. close-reef foresail.
1										
2										
3										At 5 till 10 a. m. strong gale, and carried away our fore davits & cannoes, one from the slings and one from davits.
4										
5							29		29.30	
6				S. W.						
7										At 11 a. m. more moderate, with a heavy sea.
8										
9										
10										At noon wind came round S. W.
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	---	---	---	S. W.						
2										On Saturday, day of 2 April, 1887.
3										P. M., fresh gale & a heavy sea.
4										
5										
6										At 4 p. m. bore up for the land with double-reef foresail & the whole jib & main try-sail.
7	---	---	---	West.						
8										
9										
10										At 5 set mainsail & unreef foresail.
11										
12										
1										At 6.30 p. m. sighted St. Amphritrite Point, distance about 5 miles; weather thick and fell calm, with a heavy swell.
2										
3										
4										
5	---	---	---	N. W.						At 5 a. m. strong N.W. breeze; Cape Beal bore E. N. E., dist. about 5 miles.
6										
7										
8										At 8 a. m. brought up in Dodger's Cove with our second bower and 30 fathoms chain.
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1										
2	----	----	----------	S. E.						Sunday, *April*, day of 3 April, 1887.
3										At 11 a. m. weighed up anchor & proceeded for Village Island.
4										
5										
6										At 4 p. m. brought up in Village Island with our first bower & 30 fathoms of chain.
7										
8										
9										
10										
11	----	----	----------	South.						Remarks on Monday, April 4th, 1887.
12										
1										Wind & rain throughout.
2										
3										
4										
5										
6										Remarks on Tuesday, April 5th.
7										
8	----	----	----------	S. E.						Getting our water on board and shifting our davit on the port side and repairing our starboard gallant bulwarks.
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	---	---	----------	S. W.						Wednesday, 6 day of April, 1887.
2										
3										Strong breeze & rain throughout the day.
4										
5										Remarks on Thursday, 7 April.
6										
7										More moderate weather; wind shifting from S. E. to S.W.
8										
9										
10										At latter end of the day had squalls & strong wind; vessel lying at anchor in Village Island.
11										
12										
1	---	---	Winds.							
2	---	---	N. E.							Remarks on Friday, April 8th, 1887.
3										
4										P. M., light winds from N. E.
5										
6										At noon light breeze from the westward; weighed up anchor & proceeded for Dodger's Cove.
7	---	---	West.							
8										
9										
10										At 3 brought up in Dodger's Cove with our best bower & 15 fathoms of chain.
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1				S. E.						On Saturday, 9 day of April, 1887.
2										Fresh winds & mist throughout.
3										
4										
5				South.						Remarks on Sunday, 10 of April, 1887.
6										Light winds & hazy; heavy swell outside.
7										
8										
9										Remarks on Monday, 11th day of April.
10										Fresh breeze & rain throughout.
11										
12										
1				N. E.						Remarks on Tuesday, 12 day of April.
2										Light winds & cloudy; scrapping our mast down.
3										
4				S. W.						
5										
6										Remarks on Wednesday, 13 day — April.
7										Light winds & clear weather; waiting for Indians.
8										At 5 p. m. natives brought their cannoes on board.
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1				N. E.						
2										
3										
4										
5										
6										On Thursday, 14 day of April, 1887.
7										
8				W. S. W.						At 6 a. m. weighed up anchor & proceeded out.
9										
10										
11										
12										At noon light airs & a heavy swell, & Cape Beale bore N. b. E., dist. 8 miles.
1										
2										
3										
4										
5										This day ends at noon to commence a sea log.
6										
7										
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	6	----	S. W. b. S.	West.						On Friday, 15 day of April, 1887.
2	6	5								
3	6									P. M., fresh breeze & clear weather.
4	6									
5	2	----	N. b. W.							At 4 p. m. on the sealing grounds; hauls mainsail & flying jib.
6	2									
7	2									
8	2									At 4 p. m. wear ship.
9	2	5	E. b. S.							
10	2	5								At 6 p. m. wear ship.
11	1	5	N. b. W.							
12	1	5								At 8h. 30m. p. m. made 5 miles on an E. b. S. course.
1	1	----	S. W.							
2	1									
3	1									At midnight wear ship.
4	1									
5	1									At 7 a. m. calm; put the canoes out.
6	1									
7	"									Variation 22° 30′ E.
8	"									
9	"									At noon calm & weather overcast.
10	"									
11	"	----	----------	----------	----------	----------	----------	----------	30m. 18	Cape Beale bore N. E. ½ north, dist. 22 miles.
12	"									

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
				48 32 N.	----------	----------	----------	125 44 W.	

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	"	----	South.							
2	"									
3	"									On Saturday, 16 day of April, 1887.
4	"									
5	"									P. M., calm & a heavy westerly swell, ship heading south.
6	"									
7	"									
8	"									
9	"									At 6° 30′ p. m. Cape Beale bore north & Cape Flattery N. E. b. N., dist. about 40 miles.
10	"									
11	"									
12	1									
1	2									At midnight light air; set mainsail & jib.
2	2									
3	2	----	----------	West.						
4	2									At 9 a. m. strong breeze & a heavy sea.
5	4	----	N. N. W.							
6	4									At noon Cape Flattery bore E. b. N., dist. about 15 miles.
7	4									
8	4									
9	4									
10	4									
11	4									
12	5									

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	----	----	----------	S. W.						
2										
3										On Sunday, 17 day of April, 1887.
4										
5										P. M., strong S.W. winds & squalls of rain; bore up for Pachena.
6										
7										
8										At 5 p. m. brought in Pachena with our best bower & 30 fathoms of chain.
9										
10										
11										
12										Remarks on Monday, April 18th, 1887.
1										
2	----	----	----------	S. E.						Strong breeze throughout; vessel still laying at anchor in Pachena.
3										
4										
5										Remarks on Tuesday, April 19, 1887.
6										At 9 a. m. weighed up anchor and proceeded for Barclay Sound.
7										
8										
9										At 8 p. m. brought up in Dodger Cove with best bower & 25 fathoms chain.
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1				South.						On Wednesday, 20 day of April, 1887.
2										
3										A. M., light southerly winds.
4										
5				S. W.						At 1 p. m. weighed up anchor and proceeded to Village Island to move Logan stores to the cove.
6										
7										
8										
9				West.						At 3 p. m. brought up in Village Island with our second bower & 25 fathoms chain; crew employed taking stores on board.
10										
11										
12										
1										
2										
3										Remarks on Thursday, April 21st, 1887.
4										
5										At 11 a. m. weighed up anchor & proceeded for the cove.
6										
7										
8										At 2 p. m. brought up in Dodger's Cove with our second bower and 20 fathoms of chain; crew employed taking stores on shore.
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1										
2										On Friday, 22 day of April, 1887.
3										At 11 a. m. canoes came on board; getting ready for sea.
4										
5										
6										At 1 p. m. weighed up anchor & proceeded out.
7										
8										
9										
10										Remarks on Saturday, April 23d.
11										
12										P. M., off Cape Beale.
1										
2	----	----	S. W. ----	W. by W.						At 8 p. m. Cape Beale bore N. b. E., dist. 8 miles.
3										
4										
5										At midnight light winds & smooth sea.
6										
7										At 7 a. m. lo-red the canoes; vessel head-S. W.
8										
9										
10										At noon calm & smooth sea.
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					48° 23	----------	----------	----------	125° 34″

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1										
2										
3										On Sunday, 24 day of April, 1887.
4	---	---	W. S. W.	South.						P. M., calm.
5										
6										
7										At 5 p. m. light breeze from the south, with rain.
8										
9										
10	---	---	---	S. W.						
11	---	---	N. N. W.							At 8 p. m. strong breeze & rain ; vessel head-W. S. W., under foresail and jib.
12										
1										
2										
3										At 5 a. m. wear ship heading N. N. W. ; weather dirty ; set mainsail double reefed, and at 10 made Cape Beale.
4										
5										
6										
7										
8										At noon anchored in Dodger's Cove with our best bower and 20 fathoms of chain.
9										
10										
11										
12	---	---	---	---	---	---	---	---	29.80	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1										On Monday, 25 day of April, 1887.
2	---	---	----------	West.						Strong winds and a heavy sea; lying at anchor in Dodger's Cove, accompanied with the Mary Taylor & Mountain Chief.
3										
4										
5										
6										Remarks on Tuesday, April 26, 1887.
7										
8										Strong wind & rain; vessel still lying at anchor.
9										
10										
11										Remarks on Wednesday, 27 April, 1887.
12										
1										Strong winds & cloudy; painting bulwarks outside.
2										
3										
4	---	---	----------	S. E.						Remarks on Thursday, 28 April, 1887.
5										Continuation of bad weather, with a heavy sea outside; wind shifting to the S. E.
6										
7										
8										Remarks on Friday, 29 April, 1887.
9										
10										Fresh breeze and weather overcast; vessel lying at anchor in Dodger's Cove.
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from W. P. Sayward towards Sealing Ground—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1				West.						
2										
3										
4				South.						On Saturday, day of 30 April, 1887.
5										
6										
7				S. E.						A. M., light breeze & a heavy swell outside.
8										
9										At 5 p. m. strong breeze & rain.
10										
11										
12										At 9 p. m. fresh gale & rain; let go our second bower & 15 fathoms of chain.
1										
2										
3										Remarks on Sunday, May 1st, 1887.
4										
5										Fresh breeze & rain throughout the day.
6										
7										
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	---	---	---	S. S. E.						Sunday, 1 day of May, 1887.
2										
3										Fresh gale and rain.
4										At 9 a. m. let go our second bower & 20 fathoms of chain.
5										
6										
7	---	---	---	S. S. W.						Remarks on Monday, 2 day of May.
8										
9										Wind more moderate; weighed up our second bower.
10	---	---	---	South.						At 5 p. m fresh gale; let go our second bower with 15 fathoms of chain.
11										
12										
1	---	---	---	S. S. W.						Remarks Tuesday, May 3d, 1887.
2										
3										Strong gale and a heavy swell in the cove.
4										At 6 p. m. moderate; hove our second bower.
5	---	---	---	West.						
6										
7										Remarks on Wednesday, May 4.
8										
9										At 3 a. m. strong squal-s; let go our second bower & 15 fathoms of chain.
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1										
2										
3										On Monday, day of 16 May, 1887.
4										
5										At 10 a. m. weighed up anchor & proceeded out.
6										
7										
8										At noon calm.
9										
10										
11										Albert Head bearing E. b. N. at 12.30; the steam schooner Dolphin took us in tow and proceeded down the straits.
12										
1										
2										
3										At midnight the Dolphin left us & she proceeded to Pouchena.
4										
5										
6										
7										At 6 a. m. the Dolphin took in tow again & proceeded for the cove.
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	----	----	----------	S. W.						
2										On Tuesday, day of May 17, 1887.
3										
4										
5										At 10 a. m. entered the cove in tow of the S. schooner Dolphin ; brought up with our second bower & 15 fathoms of chain.
6										
7										
8										
9										At 2 p. m. brought all Mr. Logan'- stores on board.
10										
11										
12	----	----	----------	West.						
1										
2										Remarks on Wednesday, May 18th, 1887.
3										
4										At 9 a. m. left the cove and proceeded for Ecoole.
5										
6										
7										
8										At 1 p. m. moored alongside of the w-arf & proceeded to discharge freight.
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from W. P. Sayward towards Behring Sea--Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1										On Thursday, day of 19 May, 1887.
2										
3										Vessel discharging freight at Ecoole.
4										
5										Light westerly winds throughout.
6										
7										
8										
9										Remarks on Friday, May 20th, 1887.
10										
11										Vessel laying alongside the w-arf at Ecoole, taking in water.
12										
1										
2										
3										Remarks on Saturday, May 21st, 1887.
4										
5						S. W.				At 6 a. m. left Ecoole & proceeded for Dodger's Cove for our Indians.
6										
7										
8										At 4 p. m. brought up in the cove with our first bower & 20 fathoms of chain.
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	---	---	----------	S. W.						
2										
3										On Sunday, day of 22d May, 1887.
4										
5										Crew setting up rigging.
6										
7										At 2 p. m. John Anderson came on board; has A. B.
8										
9										
10	---	---	----------	South.						Remarks on Monday, May 23d, 1887.
11										
12										Crew employed job-ing about deck, getting ready for sea.
1										
2										
3										
4										Remarks on Tuesday, 24 May, 1887.
5	---	---	----------	S. S. W.						
6										Vessel lying in Dodger's Cove, getting ready for sea.
7										
8										
9										Discharged Fred. Wick, A. B.
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from W. P. Sayward towards Behring Sea—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	---	---	----------	S. W.						On Wednesday, 25 day of May, 1887.
2										
3										At 7 a. m. weighed up anchor & proceeded for Ucluelet.
4										
5										At 4 p. m. brought up in Ucluelet with our first bower & 25 fathoms of chain.
6										
7										
8										
9										Remarks on Thursday, May 26th, 1887.
10	---	---	----------	S. W.						At 9 a. m. weighed up anchor from Ucluelet and proceeded to Hesquiat, looking for a boat-steerer.
11										
12										
1										At 4 p. m. anchored in Hesquiat with our second bower & 20 fathoms of chain.
2										
3										
4										
5										Remarks on Friday, May 27th, 1887.
6										
7										At 7 a. m. weighed up anchor & proceeded out from Hesquiat towards Behring Sea.
8										
9										At noon fresh breeze & hazzy weather.
10										This day ends at noon to commence a sea log.
11										
12										

Course.	Distance.	Diff of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	4	----	W. S. W. --	S. E.						
2	4									
3	4									On Saturday, 28 day of May, 1887.
4	4									
5	4									P. M., fresh breeze & hazzy weather.
6	5	4	W. S. W.							At 3 low-ed cannoes & caught 7 seals.
7	5	4								
8	5	4								At 6 p. m. Nootka Island bore N. E. b. E; distance about 18 miles, from which I took my departure.
9	5	4								
10	6									
11	6									
12	6									At 8 p. m. rainy.
1	5	4								
2	5	4								At midnight strong breeze & a heavy S. W. swell; took in the flying jib & mainsail.
3	5	4								
4	5	4								At 11 a. m. set the mainsail with one reef.
5	5	4								
6	5	4								At noon fresh breeze & rain.
7	5	4								
8	5	4								No observations.
9	5	4								
10	5	4								
11	5									
12	5	----	----------	----------	----------	----------	----------	---- ----	30 m.	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
West.	111 miles.	----------	----------	49° 33′ N.	----------	23°	----------	129° 30′ W.	

Journal from Hesquiat towards Behring Sea—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	5	---	West ------	South -----	Light.					
2	5									
3	5									
4	5									On Sunday, 29 day of May, 1887.
5	5									
6	5									P. M., fresh breeze & rain.
7	5									
8	5	---	W. N. W.							At 5 fog.
9	5									
10	5									At midnight clear weather.
11	5									
12	5									Variation, 24° E.
1	5									
2	4									
3	4									At noon light breeze & a heavy swell from S. W.
4	4									
5	4									
6	4									Pumps carefully attended to.
7	4									
8	3									
9	3									
10	3									
11	3									
12	3	---	------	------	------	------	------	------	30.30	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 52 W.	100 miles.	------	------	50° 35′	50° 30′	24° E.	------	131° 35 W.	131° 45 W.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	2	----	N.W. b. W.	East.						
2	2									
3	2									
4	2									Monday, 30 day of May, 1887.
5	3									
6	3									P. M., light breeze & a heavy cross-sea & fog.
7	3									
8	3									
9	3									
10	3									
11	3									At midnight continuation of same weather.
12	3									
1	3									
2	3									
3	3									
4	3									At noon calm & heavy fog.
5	2	----	W. N. W.							
6	2									
7	2									
8	2									No observations.
9	2									
10	2									
11	1									
12	1									

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 37° W.	54 miles.	0° 43′	0 51	51° 12′ N.	----------	24 east.	----------	132 36 W.	

Journal from the W. P. Sayward towards Behring Sea—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	2	---	W. N. W.--	East.						
2	3									
3	3									On Tuesday, 31 day of May, 1887.
4	3									P. M., light winds & heavy fog.
5	3									
6	3									At 7 p. m. rain.
7	3									
8	3	---	West.							
9	3									At 10 fresh wind & rain.
10	4									
11	4									At midnight fresh gale; hands flying job & double-reef mainsail & single-reef foresail.
12	5	---	W. b. S. ---	N. W.						
1	2									
2	2	---	----------	----------	----------	----------	-----	----------	29.50	
3	2									
4	2	---	South -----	West. -----	----------	2				At 2 a. m. increasing wind; hands — mainsail & jib.
5	2	---	----------	----------	----------	"				
6	2	---	----------	----------	----------	"				
7	2	---	----------	----------	----------	"				At 5 a. m. set main trysail and jib.
8	2	---	----------	----------	----------	"				
9	2	---	----------	----------	----------	"				At noon strong breeze & cloudy.
10	2	---	----------	----------	----------	"				
11	2	---	----------	----------	----------	"				
12	2	---	----------	----------	----------	"	----------	----------	30.20	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 82 W.	Dist., 30 miles; 63 on the log.	----------	----------	51 15 N.	51 12 N.	23 30 E.	----------	133 26 W.	133° 15 W.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	2	5	S. W.	W. b. N.		2 points.				
2	2	5				"				
3	2	5				"				
4	2	5				"				
5	2	5				"				On Wednesday, 1 day of June, 1887.
6	2	5				"				
7	2	5				"				P. M., strong breeze & cloudy weather.
8	2	5				"				
9	2					"				Variation, 24° east.
10	2					"				
11	2					"				
12	2					"				At midnight same weather.
1	2					"				
2	2					"				
3	2					"				At noon set mainsail & flying jib.
4	2					"				
5	3					"				
6	3					"				
7	3					"				
8	3					"				
9	3					"				
10	3					"				
11	4					"				
12	4					"				

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
S. 45 W.	59 miles.			50 30 N.	50 28 N.	24° east.		134 16 W.	134 12 W.

S. 45 W.	59 miles.	----------	----------	50 30 N.	50 28 N.	24° east.	----------	134 16 W.	134 12 W.

Journal from the W. P. Sayward towards Behring Sea—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	4	----	SW.b.W½W.	W. N. W.						
2	4									
3	4									
4	4									
5	4									
6	4									On Thursday, 2d day of June, 1887.
7	4									
8	3	5								P. M., fresh breeze & a heavy head sea.
9	3	5								
10	3	5								
11	3	5								At midnight light breeze & weather overcast.
12	3	5								
1	3	5								
2	3	5								At 6 a. m. low-ed canoes.
3	3	5								
4	3	5								
5	3	5								At 10 a. m. wind decreasing.
6	3	5								
7	3	5								
8	3	5								At noon calm.
9	4									
10	4									
11	4									
12	4									

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
S. 79 W.	86 miles.	9 miles.	2° 12′	50 19 N.	50 17 N.	24° E.	----------	136 24 W.	136 15 W.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	"	----	N. W. -----	S. E.						
2	"									
3	"									
4	"									
5	"									
6	"									On Friday, 3 day of June, 188-.
7	2									
8	2									
9	3									P. M., calm.
10	3									
11	3									
12	3									At 6 p. m. canoes came back with 60 seals.
1	3									
2	3									
3	3									At midnight light S. E. winds & fog.
4	3									
5	3	5								
6	3	5	----------	S. W.						Pumps carefully attended to.
7	3	5								
8	3	5								
9	3	5								
10	3	5								
11	3	5								
12	3	5	----------	----------	----------	----------	----------	----------	30.40	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 23 W.	56 miles.	52′	----------	51° 9′ N.	----------	24° E.	21.9	136° 49 W.	

N. 23 W.	56 miles.	52′	----------	51° 9′ N.	----------	24° E.	21.9	136° 49 W.

Journal from W. P. Sayward towards Behring Sea—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	4	---	N. N. W. --	West.						
2	4									
3	4									
4	4									
5	4									
6	4									On Saturday, 4 day of June, 188–.
7	4									
8	4									P. M., fresh breeze & fog.
9	4	5								
10	4	5								At midnight strong breeze & fog; hands flying jib & single-reefed mainsail.
11	4	5								
12	4	5								
1	4	5								At 8 a. m. set full mainsail & flying jib & M. topmast staysail.
2	4	5								
3	4	5								
4	4	5								
5	4	5								At noon fresh breeze & cloudy weather.
6	4	5								
7	5									
8	5									
9	5	---	W. N. W.							
10	5									
11	5									
12	5									

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 8° W.	95 miles.	94.0	----------	52 44 N.	----------	24 E.	12 0 W.	137° 6′ W.	

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	4		West	N.W. b. N.		2 points			30m. 20	
2	4					"				On Sunday, 5 day of June, 1887.
3	4					"				P. M., fresh breeze & weather overcast.
4	4					"				
5	4					"				At 5 p. m. strong breeze & a heavy head sea; hands flying jib & double-reef mainsail.
6	4					"				
7	4					"				
8	4					"				At 8 p. m. single-reef foresail & reef jib.
9	4					"				
10	4					"				At midnight strong breeze & cloudy; vessel labouring heavily.
11	4					"				
12	4					"				
1	4					"				At noon continuation of same weather.
2	4					"				
3	4					"				
4	4					"				Pumps carefully attended to.
5	4					"				
6	3					"				
7	3					"				No observations.
8	3					"				
9	3					"				
10	3					"				
11	3					"				
12	3					"				

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
West.	88 miles.	0 0		52 44 N.		25° E.	88.0 W.	139 23 W.	

West.	88 miles.	0 0	---- ----	52 44 N.	---- ----	25° E.	88.0 W.	139 23 W.	

Journal from W. P. Sayward towards Behring Sea—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	3	---	West ----	N.W. b. N.	----	2				
2	3	---	----	----	----	"				
3	3	---	----	----	----	"				
4	3	---	----	----	----	"				On Monday, 6 day of June, 1887.
5	3	---	----	----	----	"				
6	3	---	----	----	----	"				
7	3	---	----	----	----	"				P. M., strong breeze & fog.
8	3	---	----	----	----	"				
9	3	---	----	----	----	"				
10	3	---	----	----	----	"				At 8 a. m. more moderate; set all sails.
11	3	---	----	----	----	"				
12	3	---	----	----	----	"				At noon light breeze & fog.
1	3	---	----	----	----	"				
2	3	---	----	----	----	"				
3	3	---	----	----	----	"				
4	3	---	----	----	----	"				
5	3	---	----	----	----	"				
6	3	---	----	----	----	"				
7	3	---	----	----	----	"				
8	3	---	----	----	----	1				
9	3	5	----	----	----	1				
10	3	5	----	----	----	1				
11	3	5	----	----	----	1				
12	3	5	----	----	----	1				

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
West.	74	----	----	52 44 N.	52 42 N.	24 east.	74 0	141 2 W.	141 6 W.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	3	----	W. b. S.----	N. W. b. N.	----------	1 point --				
2	3	---	----------	----------	----------	"				
3	3	---	----------	----------	----------	"				
4	3	---	----------	----------	----------	"				On Tuesday, 7 day of June, 188-.
5	4	---	----------	----------	----------	"				
6	4	---	----------	----------	----------	"				P. M., light breeze & fog.
7	4	---	----------	----------	----------	"				
8	4	---	----------	----------	----------	"				At 4 p. m. clear weather; set the M. T. M. staysail.
9	4	--	----------	----------	----------	"				
10	4	---	----------	----------	----------	"				
11	4	---	----------	----------	----------	"				At midnight heavy fog.
12	4	---	----------	----------	----------	"				
1	4	---	----------	----------	----------	"				
2	4	---	----------	----------	----------	"				At noon foggy.
3	4	---	----------	----------	----------	"				
4	4	---	----------	----------	----------	"				
5	4	--	----------	----------	----------	"				Pumps carefully attended to.
6	4	--	----------	----------	----------	"				
7	4	---	----------	----------	----------	"				
8	4	---	----------	----------	----------	"				
9	4	--	----------	----------	----------	"				
10	4	---	----------	----------	----------	"				
11	4	---	----------	----------	----------	"				
12	4	---	----------	----------	----------	"	--- -----	---------	30.20	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 87 west.	92 miles.	05.0	----------	52 47 N.	52 46 N.	24°	91.9	143 33 W.	143 27 W.

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 87 west.	92 miles.	05.0	----------	52 47 N.	52 46 N.	24°	91.9	143 33 W.	143 27 W.

Journal from W. P. Sayward towards Behring Sea—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	4	---	West -----	N.W. b. N.	----------	1 point.	----------	---------	30.20	
2	5	---	----------	----------	----------	"				
3	5	---	----------	----------	----------	"				
4	5	---	----------	----------	----------	"				On Wednesday, 8 day of June, 1887.
5	5	---	----------	----------	----------	"				
6	5	---	----------	----------	----------	"				P. M., fresh breeze & weather overcast.
7	5	---	N. E. b. N.	----------	----------	"				
8	5	---	----------	----------	----------	"				
9	5	---	----------	----------	----------	"				At 6 p. m. tacked ship.
10	5	---	----------	----------	----------	"				
11	5	---	----------	----------	----------	"				
12	5	---	----------	----------	----------	"				At midnight same weather.
1	5	---	----------	----------	----------	"				
2	5	---	----------	----------	----------	"				
3	5	---	----------	----------	----------	"				At 6 a. m. tacked ship.
4	5	---	----------	----------	----------	"				
5	5	---	----------	----------	----------	"				
6	5	---	----------	----------	----------	"				
7	4	---	W. b. N. ---	N. N. W. ---	----------	"				At noon fresh breeze & a heavy head sea; all plain sails set.
8	4	---	----------	----------	----------	"				
9	4	---	----------	----------	----------	"				
10	4	---	----------	----------	----------	"				
11	4	---	----------	----------	----------	"				
12	4	---	----------	----------	----------	"	----------	---------	30.30	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 12 E.	38 miles.	37.5	----------	53 24 N	53 24 N.	24 E.	07.7	143 15 W.	143 10 W.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	5	----	West ------	N.W. b. N.	----------	1				
2	5	----	----------	----------	----------	"				
3	5	----	----------	----------	----------	"				
4	5	----	----------	----------	----------	"				
5	5	----	----------	----------	----------	"				On Thursday, 9 day of June, 1887.
6	5	----	----------	----------	----------	"				
7	5	----	N. N. E. ---	----------	----------	"				P. M., fresh breeze & weather overcast.
8	4	5	----------	----------	----------	"				
9	4	5	----------	----------	----------	"				At midnight same weather.
10	4	5	----------	----------	----------	"				
11	4	5	----------	----------	----------	"				At 8 a. m. light winds & cloudy; send the canoes out & caught only one seal.
12	4	5	----------	----------	----------	"				
1	4	5	----------	----------	----------	"				
2	4	----	----------	----------	----------	"				At 9 shifted foresail & flying jib.
3	4	----	----------	----------	----------	"				
4	4	----	----------	----------	----------	"				
5	4	----	----------	----------	----------	"				At noon calm and cloudy.
6	4	----	----------	----------	----------	"				
7	3	----	S. W. -----	W. N. W. ---	----------	"				No observations.
8	2	----	----------	----------	----------	"				
9	1	----	----------	----------	----------	"				
10	1	----	----------	----------	----------	"				
11	1	----	----------	----------	----------	"				
12	1	----	----------	----------	----------	"				

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 12 E.	38 miles.	38.3	----------	54 2 N.	----------	24° E.	08.6	142 55 W.	

N. 12 E.	38 miles.	38.3	----------	54 2 N.	----------	24° E.	08.6	142 55 W.	

Journal from W. P. Sayward towards Behring Sea—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	1	--	N. b. W.---	W. N. W.						
2	1									
3	1									
4	2									
5	2									
6	2									On Friday, 10th day of June, 1887.
7	2									
8	2									P. M., tacked ship, & light airs.
9	1									
10	1									At midnight calm.
11	1									
12	1									At noon calm and weather overcast.
1	1									
2	1									Canoes out.
3	2									
4	2									
5	2									
6	2									
7	2									
8	2									
9	2									
10	2									
11	"									
12	"	---	----------	----------	----------	----------	----------	----------	30.30	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 13 E.	36 miles.	35.0	----------	54 37 N.	54 31 N.	26° E.	14.0	142° 41 W.	142 34 W.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	2	----	N.W. b. N.	W. S. W.						
2	2									
3	1									
4	1									
5	"									On *Sunday*, 11 day of June, 1887.
6	"									
7	"									
8	"									P. M., light airs and cloudy.
9	2	----	N. W. b. N.							
10	2									At 5 p. m. calm; caught 18 seals.
11	2									
12	2									
1	2	----	W. N. W.							At midnight light winds & smooth water.
2	2									
3	2									
4	2									At noon light winds & weather overcast.
5	2									
6	2									No observation at noon.
7	2									
8	2									
9	3									
10	3									
11	3									
12	3	---	----------	----------	----------	----------	----------	----------	30.0	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 38 W.	41 miles.	32.3	----------	55 3 N.	"	26° E.	25.4	143 18 W.	143 9

N. 38 W.	41 miles.	32.3	----------	55 3 N.	"	26° E.	25.4	143 18 W.	143 0

Journal from W. P. Sayward towards Behring Sea—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	3	----	W. b. N. --	S. W.						
2	3									
3	3									
4	3									
5	4									
6	4									
7	4									
8	4									On Sunday, 12 day of June, 1887.
9	4									
10	4									P. M., light winds & smooth sea throughout.
11	4									
12	4									
1	4									
2	4									
3	4									
4	4									
5	3	---	----------	S. E.						
6	3									
7	3									
8	3									
9	4	--	West.							
10	4									
11	4									
12	4	---	----------	----------	----------	----------	----------	----------	30.40	

Course.	Distance	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon by D. R.	Lon. by ob.
N. 58 W.	87 miles.	45.7	----------	55° 56 N.	55° 59 N.	26° E.	73° 7′	145° 20′ W.	145° 3′ W.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	4	----	West. ------	S. E. ------						
2	3									
3	3									On Monday, 13 day of June, 1887.
4	3									
5	2									P. M., light winds & weather overcast.
6	"									
7	"									
8	"									At 6 p. m. calm.
9	"									
10	"									
11	1									At midnight light breeze & smooth sea.
12	2									
1	3									
2	3									At 6 a. m. fresh breeze & cloudy.
3	4									
4	4									
5	5									
6	5									At noon fresh breeze & cloudy; all plain sails set.
7	5									
8	4									
9	5									
10	4									
11	5									
12	5	----	----------	----------	----------	----------	----------	----------	29.90	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 64 W.	64 miles.	28″ 5′	----------	56° 27 N.	56 23 N.	26° E.	58.4	146° 52 W.	146° 59 W.

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 64 W.	64 miles.	28″ 5′	----------	56° 27 N.	56 23 N.	26° E.	58.4	146° 52 W.	146° 59 W.

Journal from W. P. Sayward towards Behring Sea—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	5	5	W. ½ S.	East.						
2	6	5								
3	6	5								On Tuesday, 14 day of June, 1887.
4	6	5								
5	6	5								P. M., strong breeze & squally.
6	6	5								
7	6	5								
8	6	5								A 8 p. m. strong wind & rain; took in main-sail and double-reef foresail and took in jib; hove her to on the port tack.
9	1	5	S. E.			4				
10	1	5				"				
11	1	5				"				
12	1	5				"				
1	1	5				"				At 9 a. m. set main trysail & jib.
2	1	5				"				
3	1	5				"				
4	1	5				"				At noon strong breeze & a heavy sea; vessel labouring heavily.
5	1	--				"				
6	1	5				"				
7	1	5				"				
8	1	5		South		1				Pumps carefully attended to.
9	6	---	West b. S.			1				
10	6	---				1				
11	6	---				1				
12	6	--				1	----------	----------	29.30	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 82 W.	80 miles.	11″ 1.	----------	56 33 N.	56 30 N.	26° E.	79.2	149 22 W.	149 16 W.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	6	----	W. b. S. ---	N. W.						
2	5									
3	5									
4	5									
5	4									
6	4									
7	4									On Wednesday, 15 day of June, 1887.
8	3									
9	3									P. M., light winds & smooth sea through-
10	3									out.
11	2									
12	2									
1	2									
2	2									
3	2									At noon same weather.
4	2									
5	2									
6	2									
7	2									
8	2									
9	2									
10	2									
11	2									
12	2	----	----------	----	-------	----	-------	---	30.20	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
				56 37 N.	56 45 N.	----------	150.42	----------	150 35″

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
				56 37 N.	56 45 N.	----------	150.42	----------	150 35″

Journal from W. P. Sayward towards Behring Sea—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1										
2										
3										
4										
5										
6										On Thursday, 16 day of June, 1887.
7										
8										P. M., light winds & smooth sea.
9										
10										At 6 p. m. sighted Island of Kodiak,
11										
12										At 4 a. m. in company with the Dolphin.
1										
2										At noon loosed canoes; caught 23 seals.
3										
4										
5										Calm.
6										
7										
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
				56 45	56 50 N.	----------	----------	151 32	151 42 W.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1										
2										
3										
4										
5										Friday, 17 day of June, 1887.
6										
7										P. M., calm.
8										
9										Position 35 miles off Cape Barnabas, bearing west.
10										
11										
12										At noon light winds and hazy weather.
1										
2										
3										Made 7 miles to the S. E.
4										
5										
6										Opened this day one of the large water tanks.
7										
8										
9										
10										
11										
12									30.0	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					57 2 N.			151 52 W.	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					57 2 N.	------- ---	--- -- ---	151 52 W.	

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	---	----	S. E. ------	N. E.						
2										
3										
4										
5										
6										Saturday, 18 day of June, 1887
7										P. M., calm & hazzy weather.
8										
9										
10										At 6 p. m. light breeze & heavy fog; standing off shore.
11										
12										
1										At midnight fresh breeze & fog; vessel lying to.
2										
3										
4										
5										At 2 a. m. run 35 miles to the S. S. W.; at 3 a. m. one schooner in company.
6										
7										
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					56 20 N.	----------	----------	----------	152 50 W.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	---	---	----------	North.						
2										
3										
4										
5										Sunday, 19 day of June, 1887.
6										
7										P. M., fresh breeze & clear.
8										
9										Tacking along shore.
10										
11										
12										At 9 a. m. strong breeze and smooth sea.
1										
2										
3										At noon Sithinck Island, south end, bore S. W. b. S., dist. about 7 miles.
4										
5										
6										Pumps carefully attended to.
7										
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					56 38 N.	----------	----------	----------	153° 37 W.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	2		S. S. W.	W. N. W.						
2	2									
3	3									
4	3									
5	3									
6	4									
7	4									Monday, 20 day of June, 1887.
8	4									
9	3									At 6 p. m. Sithinck Island bore N. W. ½ N., dist. about 20 miles.
10	3									
11	3									
12	3									At 9 a. m. sighted Bergamot Island.
1	3									
2	3									
3	3									At noon Bergamot Island bore S. W. b. W., dist. 12 miles.
4	3									
5	3									
6	4									
7	4									
8	4									
9	4									
10	4									
11	4									
12	4								29.70	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	5	---	S.W. ½ S.	North	------	1				
2	5	---	------	------	------	"				
3	5	---	------	------	------	"				
4	5	---	------	------	------	"				Tuesday, 21 day of June, 1887.
5	5	---	------	------	------	"				
6	5	---	------	------	------	"				P. M., fresh breeze & cloudy.
7	5	---	------	------	------	"				
8	5	---	------	W. N. W.						At 5 foggy & rain ; single-reef mainsail & took in flying jib.
9	5									
10	5									
11	5									
12	5									At 8 p. m. hands mainsail.
1	5									
2	5									At midnight strong breeze and rain ; vessel labouring heavil/y.
3	5	---	------	------	------	1				
4	5	---	------	------	------	1				
5	4	---	------	------	------	1				At 8 a. m. hove her to.
6	4	---	------	------	------	1				
7	3	---	------	------	------	1				
8	3	---	------	------	------	1				At noon light winds & cloudy.
9	2	---	------	------	------	1				
10	2	---	------	------	------	1				
11	2	---	------	------	------	1				
12	2	---	------	------	------	1	------	------	29.90	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					54 14 N.	22 E.	------	------	157 49 W.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	2	---	S. W. ------	W. N. W.						
2	2									
3	2									
4	3									
5	3									
6	4									Wednesday, 22d day of June, 1887.
7	4	---	N.W. b. N.							
8	4									P. M., light winds & cloudy.
9	4									
10	4									
11	4									At 3 a. m. sighted the Shonneigan Islands.
12	4									
1	4									
2	4									At 9 fresh breeze & clear weather.
3	4									
4	4									
5	5	---	S. W.							At noon Nuinyak Island bore west, distance 13 miles.
6	5									
7	5									
8	5	---	W. b. N.							
9	6									
10	6									
11	6									
12	6									

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R,	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1				West.						
2										
3										Thursday, 23 day of June, 1887.
4										
5										
6										At 5 p. m. anchored in a bay on the east side of Little Kowninshi Island for water.
7										
8										
9										
10										
11										
12										
1										Remarks on Friday, 24 June.
2										
3										At 9 a. m. weighed up anchor and proceeded out.
4										
5										
6										
7										At noon about 4 miles outside of the bay.
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1										
2										
3										
4										
5										
6										Saturday, 23 day of June, 1887.
7										
8										P. M., light winds and smooth sea.
9										
10										
11										At midnight same weather.
12										
1										
2										At 9 a. m. calm.
3										
4										
5										At noon light airs & clear weather.
6										
7										
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					54 22 N.	----------	----------	----------	158 41 W.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	1	----	S. E. ------	N. W.						
2	1									
3	1									
4	1	----	W. b. S.							
5	2									
6	3									Sunday, 26 day of June, 1887.
7	3									
8	4	5								P. M., light winds and smooth sea.
9	4	5								
10	4	--	W. S. W.							At midnight fresh breeze & cloudy.
11	3	----	----------	N. N. E.						
12	3									At 9 a. m. rain.
1	6	----	S. W. b. W.							
2	6									
3	6									At noon strong breeze and a heavy sea.
4	6									
5	6	5								No observations.
6	6	5								
7	6	5	----------	N. E.						
8	6	5								
9	6	5								
10	6									
11	6	---	W. b. S. ---							
12	6	--	----------	----------	------	----------	----------	----------	29.70	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
S. 82 W.	92 miles.	----------	----------	54 10 N.	----------	----------	----------	161 22 W.	

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	5		W. b. S.	N. N. E.						
2	5									
3	5									Monday, 27 day of June, 1887.
4	5									
5	5									P. M., strong breeze & rain.
6	5									
7	5									
8	5					4				Hands flying jib and mainsail; vessel labouring very heavily.
9	1					"				
10	1					"				
11	1					"				At 8 p. m. Ounimak Island bore W. N. W., dist. about 60 miles.
12	1					"				
1	1					"				
2	1					"				'Ove her to under her foresail.
3	1					"				
4	1					4				Low-ed boat & cannoes; caught 42 seals.
5	1									
6	2									
7	2									At noon calm, and Akoun Island bore W. N. W., dist. about 50 miles.
8	2									
9	2									
10	"									
11	"									
12	"									

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					53 25 N.				164 0 W.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	....	....	----------	S. E.						
2										
3										
4										
5										
6										
7										
8										Friday, 28 day of June, 1887.
9										
10										
11										
12										Light winds & calm throughout the day.
1										
2										
3										
4										Low-ed boats and canoes; caught 114 seals.
5										
6										
7										
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					53 40 N.	----------	----------	----------	164 55 W.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	---	---	S. W. -----	S. E.						
2										
3										
4										
5										
6										Wednesday, 29 day of June, 188–.
7										
8										P. M., calm & hazy weather.
9										
10										
11										At midnight same weather.
12										
1										
2										At noon fresh breeze & fog at times.
3										
4										
5	---	---	----------	N. W.						
6										
7										
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	2		S. W. b. S.							
2	2									
3	2									
4	2									
5	2									
6	2									Thursday, 30 day of June, 1887.
7	2									
8	2									P. M., fresh breeze & hazzy weather; vessel lying to.
9	1									
10	"									
11	"									
12	"									At 6 p. m. set single-reef mainsail.
1	"									
2	2									At noon fresh breeze & cloudy.
3	2									
4	2									
5	2									No observations.
6	2									
7	3									
8	3									
9	3									
10	3									
11	3									
12	3								29.80	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
				53 10 N.				166 47	

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	2	----	S. W.------	North.						
2	3									
3	3									
4	3									
5	3									
6	3									Friday, 1 day of July, 1887.
7	3									
8	3									
9	3									Fresh breeze & cloudy throughout the day.
10	3									
11	3									
12	3									
1	3									At 6 a. m. low-ed — and canoes ; caught 64 seals.
2	3									
3	3									
4	3									
5	3									No observations.
6	3									
7	3									
8	3									
9	3									
10	3									
11	3									
12	3									

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
				52 30	----------	----------	----------	168 23 W.	

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	6	----	S. W. b. W.	N. W.						
2	6									
3	6									
4	6									On Saturday, 2 day of July, 1887.
5	5	----	N. by W.							P. M., fresh breeze & cloudy.
6	5									
7	5									At 4 p. m. tacked ship.
8	5									
9	5									At 11.30 tacked ship.
10	5									
11	5									At 2 a. m. tacked ship.
12	5	----	S. W.							
1	5									At 3 a. m. the Islands of the Four Mountains bore N. W. b. N., dist. about 25 miles.
2	5									
3	5	----	N. b. W.							
4	5									At noon, in the middle of the passage between Ounimak Island and the Islands of the Four Mountains.
5	5									
6	5									
7	5									
8	5									
9	5									
10	4									
11	3									
12	3									

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
					52 45 N.	----------	----------	1	169 30 W.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1										
2										
3										
4										
5										
6										
7										Sunday, 3 day of July, 1887.
8										
9										P. M., light airs & hazzy weather.
10										
11										At 4 a. m. one schooner in sight.
12										
1										At 7 a. m. C-pt. Brown came on board from the schooner Annie, of San Francisco.
2										
3										
4										
5										At noon fresh breeze & heavy fog.
6										
7										
8										
9										
10										
11										
12										

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
				53 20 N.	----------	----------	----------	169 40 W.	

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	2	---	W. S. W. -	N. W.						
2	2									
3	2									
4	2									
5	2									
6	2									
7	2	---	N. N. E.							Monday, 4 day of July, 1887.
8	2									
9	2									P. M., heavy fog.
10	2	---	S. W. b. W.							
11	2									At 9 p. m. strong winds; hands mainsail.
12	2									
1	2	---	N. N. E.							At midnight tacked ship.
2	2									
3	2									At 10 a. m. heavy rain.
4	2	---	N. E.							
5	2									At noon strong breeze & cloudy.
6	2									
7	2	---	North.							
8	2									
9	2									
10	2									
11	2	--	N. W. b. W.							
12	2	---	----------	----------	----------	----------	----------	----------	29.40	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon by D. R.	Lon. by ob.
					53 35 N.	----------	----------	----------	168 37 W.

Journal from W. P. Sayward towards Sealing Grounds—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	2	----	N.W. b. W.	S. W.						
2	2									
3	2									
4	2									
5	2									
6	2									
7	1	5								Tuesday, 5 day of July, 1887.
8	1	5								P. M., strong breeze and a heavy, short sea.
9	1	5								
10	1	5								Vessel lying to.
11	1	5								
12	1	5								At noon same weather.
1	1	5								
2	1	5								Vessel lying to.
3	1	5								
4	1	5								No observations.
5	1	5								
6	1	5								
7	1	5								
8	1	5								
9	1	5								
10	1	5								
11	1	5								
12	1	5								

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
				53° 41′ N.	----------	----------	----------	168° 40′ W.	

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	2	---	N.W. b.W..	S. E.						
2	2									
3	2									
4	2									
5	1									
6	1									Wednesday, 6 day of July, 1887.
7	1									
8	1									P. M., light winds and a heavy swell from the N. W.
9	"									
10	"									
11	"									
12	"									At 5 a. m. calm & thick fog.
1	"									
2	"									
3	"									At noon foggy weather.
4	"									
5	"									
6	"									Vessel laying to.
7	"									
8	"									
9	"									
10	"									
11	"									
12	"	---	----------	----------	----------	----------	----------	----------	29.80	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
				53·45	----------	----------	----------	168 30 W.	

Journal from W. P. Sayward towards Behring Sea—Continued.

H.	K.	F.	Courses.	Winds. Direction.	Winds. Force.	Leeway.	Thermometer. Air.	Thermometer. Water.	Barometer.	Remarks.
1	"									
2	"									
3	"									
4	"									
5	"									On Thursday, 7 day of July, 1887.
6	"									P. M., heavy fog and smooth sea.
7	"									
8	"									At 1 a. m. set sails.
9	"	---	W. b. S. ---	N. N. W.						
10	2									At 3 a. m. tacked ship.
11	3									
12	4									At 6 a. m. strong breeze & a heavy sea; hands mainsail.
1	4	---	W. S. W.							
2	4									
3	3									At 10 a. m. hands the jib & 1 reef foresail.
4	3	---	North.							
5	3									
6	3									At noon vessel laying to under her foresail & labouring heavily.
7	2									
8	2									
9	2									
10	2									
11	1	5								
12	1	5							29.50	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
				54 9 N.				169 40 W.	

H.	K.	F.	Courses.	Winds.		Leeway.	Thermometer.		Barometer.	Remarks.
				Direction.	Force.		Air.	Water.		
1	1	5	North	N.W.		4				
2	1	5	"	"	"	"				
3	1	5	"	"	"	"				Friday, 8 day of July, 1887.
4	1	5	"	"	"	"				
5	1	5	"	"	"	"				P. M., strong breeze & a heavy sea.
6	1	5	"	"	"	"				
7	1	5	"	"	"	"				
8	2	5	"	"	"	2				Vessel labouring heavily.
9	2	5	"	"	"	"				
10	2	5	"	"	"	"				
11	2	5	"	"	"	"				At 1 p. m. tacked ship.
12	2	5	"	"	"	"				
1	2	5	"	"	"	"				At 7 p. m. tacked ship & set reef jib & main-trysail ; four schooners in company.
2	2	5	"	"	"	"				
3	2	5	"	"	"	"				
4	2	5	"	"	"	"				At 8 a. m. tacked ship.
5	2	5	"	"	"	"				
6	2		"	"	"	"				At noon strong breeze & cloudy.
7	2		"	"	"	"				
8	2		"	"	"	"				
9	2		"	"	"	"				
10	2		"	"	"	"				
11	2		"	"	"	"				
12	2		"	"	"	"			30.0	

Course.	Distance.	Diff. of lat.	Departure.	Lat. by D. R.	Lat. by ob.	Variation.	Diff. of lon.	Lon. by D. R.	Lon. by ob.
N. 44 E.	16	11.8		54 21 N.	54 29 N.	17 E.	11.1	168 19 W.	

192 Endorsed on the back of the log book is the following:

No. 84. United States *vs.* Schooner W. P. Sayward. Log book of the schooner W. P. Sayward from Victoria to the sealing grounds. Filed Sept. 19, 1887. H. E. Haydon, clerk, by A. A. Meyer, deputy cl'k.

193 THE UNITED STATES, }
District of Alaska, } ss:

I, N. R. Peckinpaugh, clerk of the United States district court within and for the district of Alaska, do hereby certify that the above and for-going—consisting of 148 pages of legal cap, 4 pages of flat cap, and 38 pages of log book—is a full, true, and complete transcript of all the proceedings, orders of court, pleadings, papers, memorandums, and log book now of record and on file in my office in and relating to the cause of The United States *vs.* The Schooner W. P. Sayward, No. 84 (except memorandum draft of decree of forfeiture, Sept. 19, 1882; memorandum draft of order of sale of the schooner & cargo, Dec. 12, 1887; memorandum draft of order granting appeal April 27, 1888, and memorandum draft of order of court on
194 petition for restoration of property, Sept. 2, 1889; all of which is given in the orders in this transcript.

Seal United States District Court, Alaska.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at Sitka, in said district, this the 23rd day of January, 1891.

N. R. PECKINPAUGH, *Clerk.*

Endorsed on cover: No. 84. United States *vs.* Schooner W. P. Sayward. Transcript of record & papers. January 23rd, 1891.

APPENDIX.

INDEX TO APPENDIX.

I. Official map and certificate of U. S. Court and Geodetic Survey, showing positions of "Sayward" as given by the Log, Ante pp. 108–120, with distance from land, width of passage of Four Mountains and place of seizure, Ante, p. 25.. p. I

II. Affidavits of W. Clark and A. K. Delaney, and stipulation therein referred to..... pp. 1, 2, 3

III. Charge of Judge Lafayette Dawson to jury, referred to in Executive Doc. 106, 50th Congress, 2d Session, pp. 78, 121, I Alaskan Reports, p. 84..... p. 4

IV. Opinion of Judge Lafayette Dawson in the case of the "British Schooners." Alaskan Reports, Vol. I. p. 53... p. 7

V. Affidavit of Thomas Henry Cooper as to nationality..... p. 16

VI. Affidavit of James D. Warren as to recital in bond for costs. Ante p. 20 with copy of bond therein referred to ..... pp. 17–19

APPENDIX.

UNITED STATES,
District of Alaska. } *ss:*

WILLOUGHBY CLARK, being first duly sworn, upon his oath says, I am an attorney and counsellor at law, and Proctor in Admiralty, practicing as such in the courts of Alaska, and was the original attorney of record on the ground for the defendants in certain proceedings for the forfeiture of certain British vessels for violation of section 1956 of the Revised Statutes of the United States, which said vessels were seized and libelled, during the summer and autumn of 1887. Mr. N. W. Trywhitt, Drake of Victoria superseded me as counsel for the owners of said vessels, and as such did on the 10th day of September, 1887, enter into the annexed stipulation with A. K. Delaney, the then acting attorney for the United States. The facts agreed on in said stipulation, and all other matters contained therein were to include all British vessels then under seizure of which the *W. P. Sayward* was one. The case against the said *W. P. Sayward* was to be made a test case in the Supreme Court of the United States. I also recollect that it was verbally stipulated and agreed between the respective attorneys that no *fur seals* were captured in the Alaska waters by any of the crew of the said *W. P. Sayward* within the International Marine limit, as the same is understood outside Behring Sea.

WILLOUGHBY CLARK.

Subscribed and sworn to before me this 16th day of March A. D., 1891.

[SEAL.] W. R. HOYT,
United States Commissioner for Juneau, Alaska.

IN THE DISTRICT COURT OF THE TERRITORY OF ALASKA.

THE UNITED STATES,

vs.

THE BRITISH SCHOONERS

Dolphin, Anna Beck, Grace, and Ada.

It is hereby stipulated and agreed between the plaintiff and the masters of the defendant schooners, that the demurrer filed in the matter of the information against J. D. Warren, and the agreement therein shall apply to the libels filed or to be filed against the above vessels. It is further stipulated and admitted as a fact, that the masters of the above named vessels did kill seals during the month of July, 1887, in that portion of Behring Sea claimed by the United States under the treaty of 1867, between Russia and the United States, and beyond the limit of ten miles from the nearest land.

It is further stipulated, that in case the vessels or any of them shall be condemned by any order of the court, that the same shall not be sold until the expiration of three months from the publication of any order ordering such sale. And that such sale shall take place at Port Towsend or some other point on Puget Sound. It is further stipulated that the defendant may give security for appeal to the Supreme Court of the United States or such other court as may have jurisdiction by bonds of any qualified bondsmen in Washington Territory, Oregon or California.

Upon the question of fact thus agreed upon, the parties submit the cases to the court upon the law question raised by the demurrer. Tenth September, 1887.

On behalf of the masters of the above named schooners.

M. W. TRYWHITT DRAKE,

A. K. DELANEY,

Att'ys for United States.

THE UNITED STATES OF AMERICA.

DISTRICT OF ALASKA } *ss.*

I, N. R. Peckinpaugh, clerk of the United States District Court for the District of Alaska, do hereby certify that the foregoing copy of the stipulation entered into in the case of the *U. S.* vs. *The British Schooners Dolphin, Anna Beck, Grace, and Ada*, has been by me compared with the original and that it is a correct transcript therefrom, and of the whole of such original, as the same appears of record at my office and in my custody. In testimony whereof I have hereunto set my hand and affixed the seal of said Court at Sitka, in said District, this 2d day of March, 1891.

N. R. PECKINPAUGH, *Clerk.*

UNITED STATES OF AMERICA, }
District of Alaska. }

A. K. Delaney, being first duly sworn, deposes and says: I am an attorney and counsellor-at-law, practicing as such in Alaska, and was the attorney for the United States in the proceedings had in the United States District Court for the District of Alaska, in the month of September, October and November, 1887, for the condemnation and forfeiture of several American and English vessels seized and libelled during the summer and fall of 1887, for illegal sealing in Behring Sea, and as such attorney signed, with Mr. N. W. Trywhitt Drake the stipulation, a certified copy of which is hereto annexed, that as I now recollect the matter Mr. Drake represented and appeared in such court for all the English vessels then under seizure and libel, and the intention of the said stipulation was, that it should cover and include all the English vessels, including the W. P. Sayward, schooner, of Victoria, B. C.

Subscribed and sworn to before me this March 16, 1891.

A. K. DELANEY.

W. R. HOYT,
U. S. Commissioner for Alaska. [SEAL.]

[The following is the charge of Judge Lafayette Dawson referred to and quoted from in Executive Document No. 106, 50th Congress, 2d Session, p. 121, as published in the newspaper "Alaskan," September 4th, 1886. The charge is reprinted in full from Alaskan Reports Vol. I, pp. 84 to 87, inclusive.]

UNITED STATES VS. GUTORMSON AND NORMAN.

(District Court D. Alaska.)

Charge to the jury defining the rights and jurisdiction of the United States to Bering Sea, and explaining the law in relation to the destruction of fur-bearing animals.

Dawson, Judge.

Gentlemen of the Jury:—You are called upon to determine or rather to find the facts in a controversy of unusual importance. The information preferred and filed by the district attorney, based upon the affidavit of the commander of the United States revenue cutter Corwin, charges the defendants with having killed a certain number of seals and other fur-bearing animals, and appropriating the skins of such animals, in the waters of Alaska, contrary to the provisions of section 1956 of the Revised Statutes. It is the duty of the court to instruct the jury as to the law applicable to the facts of this case as developed by the evidence, and it is your duty as jurors acting under the solemn obligation of an oath, and as one of the instrumentalities designated by the law to aid in its enforcement, to obey, and in your deliberations observe the instructions given you by the court.

For the purpose of aiding you in your deliberations, I will define to you the western boundary line of Alaska as designated and set forth in the treaty of March 30, 1867, between the government of the United States, on the one part, and by His Majesty the Emperor of all the Russias, acting through his envoy extraordinary and minister plenipotentiary to the United States, on the other. Article one of that treaty defines the western boundary as follows:

"The western limit within which the territories and dominion conveyed are contained passes through a point in Bering's Straits on the parallel of sixty-five degrees thirty minutes north latitude at its intersection by the meridian which passes midway between the Islands of Krusenstern and Ignalook and proceeds due north without limitation into the same Frozen Ocean.

The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Bering's Straits and Bering's Sea so as to pass midway between the north-

west point of the island of St. Lawrence and the southwest point of Cape Chaukotski to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southwesterly direction, so as to pass midway between the island of Attou and the Copper Island of the Kounavdoski couplet or group in the North Pacific Ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of the meridian."

All the waters within the boundary set forth in this treaty to the western end of the Aleutian Archipelago and chain of islands are to be considered as comprised within the waters of Alaska, and all the penalties prescribed by law against the killing of fur-bearing animals must therefore attach against any violation of law within the limits before described.

If, therefore, the jury believe from the evidence that the defendants by themselves, or in conjunction with others, did, on or about the time charged in the information, kill any otter, mink, martin, sable or fur-seal, or other fur-bearing animal or animals, on the shores of Alaska or in Bering's Sea, east of the one hundred and ninety-third degree of west longitude, the jury should find the defendants guilty.

You are further instructed, gentlemen, as a matter of law, that an accessory is one who stands by and aids, abets or assists, or, who not being present aiding, abetting or assisting, has advised or encouraged others to perpetrate the act charged in the information, such a person is to be considered a principal; and if you believe from the evidence that the defendants were associated with other persons who were engaged in killing any of the animals herein mentioned, and that they gave aid and encouragement to such persons by word, sign or gesticulation, while they were engaged in such unlawful enterprise, then the jury should find them guilty, and assess their punishment as hereinbefore set forth.

The jury are further instructed, as a matter of international law, that it makes no difference that one or both of the accused parties may be subjects of Great Britain. Russia had claimed and exercised jurisdiction over all that portion of Bering's Sea embraced within the boundary lines set forth in the treaty, and that claim had been tacitly recognized and acquiesced in by the other maritime powers of the world for a long series of years prior to the treaty of March 30, 1867.

By the terms of that treaty the United States acquired all the rights of occupancy, jurisdiction and control of the waters of Bering's Sea that had been exercised and enjoyed by Russia, east of the one hundred and ninety-third degree, west longitude,

prior to the exchange and ratification of the treaty of March 30, 1867, and acquired absolute control and dominion over all rivers which flow through the territory of Alaska, and the seacoast adjoining it or any of the islands embraced within the treaty and the navigable waters included in all bays and between headlands and arms of the sea joining the territory, and British vessels manned by British subjects had no right to navigate the waters before described for the purpose of killing any of the furbearing animals heretofore designated.

The jury are further instructed that on the 3rd day of August, 1870, the United States, through its acting Secretary of the Treasury, in pursuance of an act of Congress approved July 1st, 1870, entitled "An Act to prevent the extermination of fur-bearing animals in Alaska," entered into a contract of lease, and by said contract did lease to the Alaska Commercial Company, a corporation duly established and incorporated under the laws of the State of California for the term of twenty years from the first day of May, 1870, the right to engage in the business of taking fur seals on the island of St. George and St. Paul within the territory of Alaska, and that public law implies an obligation upon the United States to protect its lessees in the legitimate use of the franchise conferred in said lease, and the capture of the defendants with the vessels under their charge and control in the waters and within the boundary lines set forth in this charge was lawful, and that it was lawful for the Secretary of the Treasury to direct and order the seizure of such vessels, their masters, mates and crews, when found violating the law within the waters of Alaska.

The admission of the defendants that they were killing furbearing animals in that portion of Bering Sea which is within the boundary line set forth in the treaty, as shown by the evidence, are to be taken against them, and although such admissions are to be taken together as a whole, the jury are not bound to regard all parts of them with equal confidence, the fact that the admissions are against their interests or in their favor, their improbability, inconsistency, contradictions and corroboration by other facts in proof are circumstances proper to be considered by the jury in determining the weight to be given to such admissions. And if the jury believe from the evidence that the defendants or either of them were in charge of the schooner Thornton and had in their employ men furnished with small boats and firearms or other instruments or implements for the purpose of killing any of the fur-bearing animals mentioned in the information, and that they admitted they were engaged in that business, or when being accused they remained silent, or if dead seals were found in their possession which had recently been killed, the jury will be warranted in presuming that they

were killed under the direction and at the command of the defendants.

[The following is the opinion of Judge Dawson, Alaskan Reports, Vol. I, pp. 53 to 61 inclusive, under the title of "The British Schooner." From the certified copy of the opinion filed in this Court, it appears that said opinion was filed in the District Court of Alaska, October 11th, 1887, in the cases of the Dolphin, Anna Beck, Grace and Ada.]

Mr. A. K. Delaney for the United States.
Mr. M. W. T. Drake, Q. C., for the vessels.

DAWSON, Judge, delivered the opinion of the court.

The libel of information in the case of the schooner Dolphin is similar to the informations filed against the other schooners named, and alleges that on the 12th day of July, 1887, the commanding officer of the United States Revenue Cutter Rush, seized the schooner Dolphin in that portion of Bering Sea which was ceded to the United States by Russia in the treaty of March, 1867. That said schooner was violating Section 1956 of the Revised Statutes in relation to the protection of seal life in the waters of Alaska. To the libel of information the Queen's Counsel of British Columbia filed a demurrer, alleging that the District Court of Alaska had no jurisdiction over the subject matter of the action, for the reason that the schooner was more than one marine league from the shore when seized, and that the act of Congress of July 27, 1868, is unconstitutional, in that it restricts free navigation of the Bering Sea for sealing purposes. A stipulation, signed by the Queen's Counsel, Mr. M. W. T. Drake, upon the part of the British owners, and Mr. A. K. Delaney upon the part of the United States, was filed, in which it was agreed and conceded that the masters of the vessels named were taking fur seals in that portion of Bering Sea which is claimed by the United States under the treaty with Russia of March, 1867.

The issue as presented involves an examination of a most pertinent and critical question of international law. It will be necessary to ascertain first, the right of the Imperial Government of Russia to the Bering Sea, anterior to the treaty of March, 1867, and for information upon this subject I am largely indebted to Mr. N. L. Jeffries for a collection and citation of authorities and historical events, and for the want of books at my command upon this question, I am compelled to rely for historical facts upon his carefully prepared brief. From this elaborate brief I glean the following facts:

The Sea of Kamtchatka, or Bering Sea, is a large estuary of the North Pacific Ocean or Bay, and from the date of its discovery until the cession of Alaska to the United States was bordered on all sides by the Territory of Russia, except the Straits at the north leading to the Frozen Ocean, and the outlet in the southwest into the North Pacific.

In the early part of the eighteenth century, Peter the Great, of Russia, directed the fitting out of an exploring expedition to determine whether the continent of Asia and America joined, or were separated by the sea; also to discover if there were not an American Russia, as there was already an Asiatic and European Russia.

The expedition was commanded by Captain Bering, who set out from St. Petersburg, accompanied by officers, seamen, and shipbuilders, on the 5th of February, 1725; and after a perilous journey through Northern Siberia he reached Kamtchatka, whence he sailed on the 20th of July, 1728, in a vessel named the "Gabriel," which had been built at Kamtchatka in accordance with instructions drawn up by the Emperor.

The first land discovered was the island of St. Lawrence, which he named in honor of the Saint on whose day it was discovered. He continued northward until he reached what he supposed was the northeastern extremity of Asia, and was satisfied that the two continents were separated by the sea. Returning to St. Petersburg after passing through the sea and straits which bear his name, with the fixed opinion that there was a large body of land to the eastward, he aroused the spirit of discovery and induced his government to continue the explorations. He was created an admiral and placed in command of a new expedition; the Senate, the Admiralty, and the Academy of Science all united in aiding and encouraging the enterprise. This expedition, like the former, made the long and dreary journey across Northern Asia, and the Sea of Okhotsk to Kamtchatka.

On the 4th of June, 1741, two well appointed ships, the "St. Paul" and "St. Peter," sailed in quest of new discoveries. On the 18th of July Bering first saw the continent of America in latitude 50 deg. 28 min. (See Muller's Voyages from Asia to America; Steller's Diary, page 190.)

According to his instructions, after reaching the American coast, he was to steer southward to the 45th parallel, and then return to the north, crossing back to Asia at Bering Strait. (Bancroft's History of Alaska, page 54.)

During this expedition, Bering sailed as far south as 45 deg. north latitude, and after making many discoveries his ship was finally wrecked near the island which bears his name, and on which he died on the 8th of December, 1741.

The enterprising spirit of Russian merchants and traders even in Siberia was awakened by the accounts given of the industries that might be created and the innumerable fur bearing animals which inhabited the waters and islands in and adjacent to what is now known as Bering Sea. Owing to a conflict of interests, disorder and a wanton destruction of seal life in the waters and on the islands of the new discoveries, an imperial ukase was issued bearing date of December 27, 1799, by which the right of fishing, hunting and trading was conferred upon what was designated the "Russian America Company." In the ukase of that date Russia asserted a distinct claim, by right of discovery, to the western part of America, beginning from the 55th degree of north latitude, and of the chain of islands extending from Kamtchatka to the north to America and southward to Japan. Authority was also given to the company to have exclusive use of all hunting grounds and establishments then existing on the northeastern (western) coast of America, from the 55th degree of north latitude to Bering Straits, and also on the Aleutian, Kurile, and other islands situated on the northeastern ocean, and to make new discoveries not only north of the 55th degree of north latitude, but farther to the south, and to occupy the new lands discovered as Russian possessions. It will be observed from the foregoing that Russia claimed the exclusive right and dominion of the Sea of Kamtchatka, now known as Bering Sea, by right of discovery, and for the further reason that the sea was bounded by Russia's Asiatic coast on the west, to Bering Straits on the north, and on the American continent as far east as British possessions, and south to 54 deg. 40 min. north latitude, and was essentially land locked by Russian territory.

Now, in relation to this question of title acquired by discovery our own court of last resort has held in the case of Johnson v. McIntosh, 8 Wheat. 572, Marshall C. J. delivering the opinion, that, "On the discovery of this immense continent the great nations of Europe were eager to appropriate to themselves so much of it as they could acquire. * * * But as they were all in pursuit of nearly the same object, it was necessary, in order to avoid conflicting settlements and subsequent war with each other, to establish a principle which all should acknowledge as the law by which the right of acquisition which they all asserted, should be regulated as between themselves. This principle was, that discovery gave title to the Government by whose subjects, or by whose authority it was made, against all other European Governments, which title might be consummated by possession. The exclusion of all other Europeans necessarily

gave to the nation making the discovery the sole right of acquiring the soil from the natives, and establishing settlements upon it. It was a right with which no European could interfere. It was a right which all asserted for themselves, and to the assertion of which by others all assented. * * * (See Wharton's Digest International Law, vol. 1, § 2.)

Chancellor Kent says: "All that can be reasonably asserted is, that the dominion of the sovereign of the shore over the contiguous sea, extends as far as is requisite for his safety and for some lawful end." (1st Kent's Commentaries, page 28.)

Vattel says: "A nation may appropriate to herself those things of which the free and common use would be prejudicial or dangerous to her. This is a second reason for which Governments extend their dominion over the sea along their coasts, as far as they are able to protect their rights." (See Vattell's Law of Nations, 127.)

Supplementing the principle enunciated by C. J. Marshall *supra* with the rule as stated by Kent and Vattel, can there longer exist a doubt as to Russia's title to the Bering Sea and the extended group of the Aleutian Islands?

The Queen's Counsel lays much stress in his argument upon the fact that both the United States and Great Britain treated with Russia, (the United States in 1824, and Great Britain in 1825), in relation to the free use of the waters of the Bering Sea, and it is claimed that by these treaties the sea was thrown open as the common property of mankind. But an examination of these treaties and the objects in view by the three great powers fail to warrant the conclusion reached in the argument. The principal parts of the treaty between the United States and Russia, the treaty between Great Britain and Russia being similar, are thus set forth by Professor Wharton. (See 1st International Law Digest, § 32):

Article 1.—It is agreed that, in any part of the great ocean, commonly called the Pacific Ocean or South Sea, the respective citizens or subjects of the high contracting powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in the power of resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles.

Article 2.—With a view of preventing the rights of navigation and of fishing exercised upon the great ocean by the citizens and subjects of the high contracting powers from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where there is a Russian establishment, without the permission of the governor

or commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the northwest coast.

Article 3.—It is moreover agreed that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the northwest coast of America, nor in any of the islands adjacent, to the north of fifty-four degrees and forty minutes of north latitude; and that, in the same manner, there shall be none founded by Russian subjects, or under the authority of Russia, south of the same parallel

Article 4.—It is, nevertheless, understood that during a term of ten years, counting from the signature of the present convention, the ships of both Powers, or which belong to their citizens or subjects respectively, may reciprocally frequent, without any hindrance whatever, the interior seas, gulfs, harbors, and creeks upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country.

Article 5.—All spirituous liquors, fire-arms, other arms, powder, and munitions of war of every kind, are always excepted from this same commerce permitted by the preceding article, and the two powers engage, reciprocally, neither to sell nor suffer them to be sold, to the natives by their respective citizens and subjects, nor by any person who may be under their authority. It is likewise stipulated that this restriction shall never afford a pretext, nor be advanced, in any case, to authorize either search or detention of the vessels, seizure of the merchandise, or, in fine, any measures of constraint, towards the merchants or the crews who may carry on this commerce; the high contracting Powers reciprocally reserving to themselves to determine upon the penalties to be incurred, and to inflict the punishments in case of the contravention of this article by their respective citizens or subjects.

Nations, like individuals, have the right of contracts, and their treaties are subject to the same rules of interpretation and of morality which govern in municipal law. (1st Bouvier Law Dictionary, 741.)

"Estoppel" in law is a term, the etymology of which implies the preclusion of a person from asserting a fact by previous conduct, inconsistent therewith; on his own part or on the part of those under whom he claims. It is in law a prohibition which denies a man the right of alleging or denying a fact in which he has with a full knowledge long acquiesced. (Stephens' Plead. 239; see Vattel on the law of nations, § 286 and § 294.) Applying this rule the conclusion cannot be escaped that in consequence of the acquiescence of Great Britain in the claim, juris-

diction and dominion of Russia to what is now known as Bering Sea since the expiration of the treaty of Russia and Great Britain in 1825, which was to exist ten years, Great Britain and her Dominion Government, of which British Columbia is a part, are estopped from any claim of right or privilege of taking fur-bearing animals in Bering Sea east of the line mentioned as our western boundary in the treaty, and which is recognized as the line dividing the continents of Asia and North America.

The western boundary line of the United States as agreed upon by the United States and Russia in the treaty of March, 1867, is as follows:

The western limit within which the territories and dominion conveyed are contained passes through a point in Bering's Straits on the parallel of sixty-five degrees, thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern or Ignalook, and the island of Ratmanoff or Noonarbook, and proceeds due north without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Bering's Straits and Bering's Sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southwesterly direction, so as to pass midway between the island of Attou and the Copper Island of the Kormandorski couplet or group in the North Pacific Ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian. (See Public Treaties, page 672.)

The courts have the same right and power when called upon to interpret a public treaty, to derive aid from contemporaneous interpretation, and by ascertaining the intention of those whose duty it is, under the constitution, to make treaties as they have in the interpretation of any other law. What then was the object in purchasing Alaska? Manifestly to extend our northwest boundary line so as to include the whole group of the Aleutian Islands.

Senator Sumner, who was chairman of the committee on foreign affairs in the Senate of the United States at the time of the Alaska purchase, and after the boundary line had been agreed upon, defined it as follows:

"Starting from the Frozen Ocean, the western boundary descends, Bering Straits, midway between the two Islands of Krusenstern and Ratmanoff, to the parallel of 65 deg. 30 min., just below where the continents of America and Asia approach each

other the nearest; and from this point it proceeds in a course nearly southwest through Bering Straits, midway between the island of St. Lawrence and Cape Choukotski, to the meridian of 172 deg. west longitude, and thence in a southwesterly direction, traversing Bering Sea midway between the island of Attau on the east and Copper Island on the west, to the meridian of 193 deg. west longitude, leaving the prolonged group of the Aleutian Islands in the possessions now transferred to the United States, and making the *western boundary of our country the dividing line* which separates Asia from America. In the Aleutian range, besides innumerable islets and rocks, there are not less than fifty-five islands exceeding three miles in length; there are seven exceeding forty miles, with Ounimak, which is the largest, exceeding seventy-three miles. *In our part of Bering Sea* there are five considerable islands, the largest of which is St. Lawrence, being more than ninety-six miles long." (See Ex. Doc. No. 177, 40 Cong., 2d Sess., page 125.) Indicating most clearly what was the understanding in the United States Senate at the time, as to our western boundary.

Subdivision 2 of section 2 of the constitution in defining the powers of the President, says: "He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur." * * *

Judge Story, in considering this clause of the constitution, says: "It will be observed from this that the power to make treaties is by the constitution general, and, of course, it embraces all sorts of treaties for peace or war, for commerce or territory." * * * (See Story on the Constitution, § 1,508, and authorities there cited.)

It is argued that this question belongs to the political department of the government and that it should be there adjusted, but this position is, I think, wholly untenable, at least at this stage of the controversy.

The second clause of the sixth article of the Constitution declares that: "This Constitution and the laws of the United States, which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land. And the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."

Judge Story, in commenting on this section, forcibly says: "The propriety of this clause would seem to result from the very nature of the Constitution. If it was to establish a national government, that government ought to the extent of its powers and rights, to be supreme. It would be a solecism to affirm that a national government should exist with certain powers, and yet that in the exercise of those powers it should not be supreme.

"In regard to treaties, there is equal reason why they should be held when made, to be the supreme law of the land. It is to be considered that treaties constitute solemn compacts of binding obligation among nations; and unless they are scrupulously obeyed and enforced, no foreign nation would consent to negotiate with us; or, if it did, any want of strict fidelity on our part in the discharge of the treaty stipulations would be visited by reprisals or war. It is, therefore, indispensable, that they should have he obligation and force of a law, that they may be executed by the judicial power and be obeyed like other laws." (See Story on the Constitution, § 1,838.)

Congress recognized the right of the United States to the whole of the new acquisition by appropriating seven millions two hundred thousand dollars to pay for the new territory, and on the 27th day of July, 1868, extended the laws of the United States relating to customs, commerce, and navigation over all the main land, islands, and waters of the territory ceded to the United States by the Emperor of Russia. (See Revised Statutes, §1,954.) Showing unmistakably the understanding of the government at the time as to what had been acquired, and that our boundary line was located at the 193d degree of west longitude. The longitude of a place is the arc of the equator intercepted between the meridian passing through that place and some assumed meridian to which all others are referred. Different nations have adopted different meridians. The English reckon from the Royal Observatory at Greenwich; the French from the Imperial Observatory at Paris; and the Germans from the Observatory at Berlin, or from the island of Ferro. In the United States we sometimes reckon longitude from Washington, and sometimes from Greenwich. (See Loomis' Elements of Astronomy.) But in establishing the western boundary line of Alaska the reckoning of longitude was from Greenwich, which reaches the line dividing the continents of Asia and North America. (See Art. 1, of the Treaty of March, 1867.)

The purchase of Alaska was unquestionably made with a view to the revenues to be derived from the taking of fur seal in the waters of Bering Sea, and especially on the islands of St. Paul and St. George, both of which were by Act of Congress of March 3, 1869, made "A special reservation for government purposes." (See 15th Statute, 248.) Secretary Seward was a skilled diplomat, a learned man in statecraft, and he evidently foresaw the income to be derived by the Government from the seal industry on and adjacent to those islands. Hence in the negotiation he insisted upon and Russia conceded that our boundary line should be extended to the meridian named in the treaty. The industry and consequent revenues would be hopeless without the residu-

ary power of the United States to protect and regulate the taking of fur bearing animals in that part of our domain. The effort of the United States to seize and drive out the illicit piratical craft that have been navigating those waters for years, indiscriminately slaughtering fur-bearing animals, the continuation of which can but result in the wanton destruction of the rookeries, the most valuable in the world, is a legitimate exercise of the powers of sovereignty under the law of nations, with which no nation can lawfully interfere. The question of the constitutionality of the Act of Congress of July 27, 1868, (Revised Statutes, page 343) scarcely deserves notice, since it has been sustained by this court. (See United States v. Nelson, 29th Federal Reporter, page 202. See same case affirmed by the United States Circuit Court for Oregon, Weekly Federal Reporter of April 19, page 112. See also the Louisa Simpson, 2 Sawyer.)

The conclusion I have reached is that the demurrer must be overruled, and it is so ordered; and that judgment of forfeiture to the United States be entered against each of the vessels separately, together with their tackle, apparel, furniture and cargoes, saving to the masters and mates their private property, such as nautical instruments and the like, and that a stay of proceedings for ninety days be granted as per stipulation filed.

UNITED STATES OF AMERICA.

STATE OF CALIFORNIA,
City and County of San Francisco. } ss:

I, Thomas Henry Cooper, of No. 3420 Sacramento street, in the said city and county of San Francisco, being duly and publicly sworn, on my oath say:

That I am the claimant in the case of the United States *v.* "W. P. Sayward," now or late depending in the Supreme Court of the United States, Captain J. D. Warren, of Victoria, British Columbia, being my attorney in fact; that I was born on or about the 20th day of June, in the year eighteen hundred and thirty-six, at Bolton, in the county of Lancaster, in that part of the United Kingdom of Great Britain and Ireland called England; that my father was named John Cooper and my mother was named Sarah Greenwood before her marriage to my father; that I am and always have been a subject of Her Majesty the Queen of the said United Kingdom of Great Britain and Ireland, and have never at any time renounced my allegiance to the said Queen or changed or attempted to change my nationality as a British subject.

THOMAS HENRY COOPER.

Subscribed and sworn to before me, Thomas Henry Cooper, this twenty-seventh day of March, A. D. 1891.

[SEAL.] CHAS. D. WHEAT,
Notary Public.

STATE OF CALIFORNIA,
City and County of San Francisco. } ss:

I, Wm. J. Blattner, county clerk of the city and county of San Francisco, State of California and *ex-officio* clerk of the superior court thereof (which court is a court of record, having a seal), do hereby certify that Chas. D. Wheat, whose name is subscribed to the annexed instrument and thereon written, and before whom the annexed oath or affidavit was taken, was, at the time of taking such oath or affidavit, a notary public in and for the city and county of San Francisco, residing in said city and

county, duly authorized to take the same, and an officer duly authorized by the laws of said State to take and certify the acknowledgment and proof of deeds to be recorded in said State. And further, that I am well acquainted with the handwriting of such officer, and verily believe that the signature to such jurat or certificate is genuine.

In witness whereof, I have hereunto set my hand and affixed the seal of the said superior court, at my office in said city and county, this 27th day of March, A. D. 1891.

[SEAL.] WM. J. BLATTNER,
Clerk.

SUPREME COURT OF THE UNITED STATES.

Ex parte THOMAS HENRY COOPER owner and claimant of the British schooner "*W. P. Sayward.*"

and

Ex parte Sir JOHN THOMPSON, K. C. M. G., Her Britanic Majesty's Attorney General of Canada.

I, James Douglas Warren, of the city of Victoria, in the Province of British Columbia, master mariner, make oath and say:

1. That I am the lawful agent and attorney in fact of the above-named Thomas Henry Cooper, of the city of San Francisco, in the State of California, one of the United States of America, owner and claimant of the British schooner "*W. P. Sayward*" in these proceedings referred to.

2. That the statement in the bond for costs, a copy of which bond is hereto annexed marked as Exhibit "A," that Thomas Henry Cooper is "a citizen of the United States" is untrue.

3. That the said Thomas Henry Cooper was at the time of making and signing said bond, and now is, a British subject, having been born at Bolton, in England, and never having renounced his allegiance to the Sovereign of Great Britain.

4. That the said bond for costs was prepared hurriedly,

and to the best of my knowledge and belief was not read over to me at the time of execution, and I was not aware that such statement was in the said bond until yesterday.

J. D. WARREN.

Subscribed and sworn to before me at the city of Victoria, in the Province of British Columbia, this 19th day of March, 1891.

[SEAL.] LEVI W. MYERS,
U. S. Consul.

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE DISTRICT OF ALASKA.

UNITED STATES, *versus* THE SCHOONER W. P. SAWYARD and THOMAS HENRY COOPER and 470 Fur Seal Skins.	No. Bond for costs.

Know all men by these presents: That we, Thomas Henry Cooper, a citizen of the United States of America, resident of San Francisco, California, and James Douglas Warren, of the city of Victoria, British Columbia, my lawful agent and attorney in fact, and Bailey Gatzert and Jacob Furth, citizens of the United States of America, and residents of the city of Seattle, in Washington Territory, are held and firmly bound unto the above-mentioned United states of America in the sum of $300.00 lawful money of the United States, to be paid into the District Court in and for the District of Alaska or unto the Clerk thereof, upon the order of the judge of such court, for the payment of which well and truly to be made, we bind ourselves and each of us our heirs, administrators and executors, jointly and severally, firmly by these presents. Sealed with our seals and dated this 31st day of March, 1888.

Whereas, in the U. S. District Court in and for the District of Alaska, a decree of forfeiture having been declared, in the above entitled action:

Now, therefore, the condition of the above obligation is such, if the above named plaintiff herein recover from the defendants the costs and accrued costs in said action, we, the undersigned, are bound unto the United

States of America for all and every such costs, and accrued costs herein related.

THOMAS HENRY COOPER, [L. S.]
By JAMES DOUGLAS WARREN,
his attorney in fact, [L. S.]
J. D. WARREN, [L. S.]
BAILEY GATZERT, [L. S.]
JACOB FURTH, [L. S.]

This is Exhibit "A," referred to in the affidavit of James Douglas Warren, sworn before me this 19th day of March, 1891.

LEVI W. MYERS, [SEAL.]
U. S. Consul.

TERRITORY OF WASHINGTON, } *ss.*
Third Judicial District. }

In the District Court, Third Judicial District, holding terms at Seattle.

Bailey Gatzert and Jacob Furth the persons named in, and who subscribed the foregoing undertaking as the sureties hereto, being severally sworn, each for himself says: That he is worth the amount specified in said undertaking as the penalty thereof, over and above all just debts and liabilities, exclusive of property exempt from execution.

Subscribed and sworn to before me this 31st day of March, 1888.

BAILEY GATZERT,
JACOB FURTH,
[SEAL.] W. E. LEDGENOOD,
Clerk.

The sufficiency of the sureties of the foregoing bond is hereby approved.

[SEAL.] R. A. JONES,
Judge of the District Court, third Judicial District of Washington Territory.

FEB 2 18
JAMES. H. McKENNE

Supreme Court of the United States.

No..... Original.

EX PARTE

SIR JOHN THOMPSON, K. C. M. G.

HER BRITANNIC MAJESTY'S ATTORNEY-GENERAL OF CANADA.

SUGGESTION FOR WRIT OF PROHIBITION

TO BE DIRECTED TO THE JUDGE OF THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE TERRITORY OF ALASKA.

CALDERON CARLISLE.
For H. B. M's.
Attorney-General of Canada.

R. O. Polkinhorn, Printer, Washington, D. C.

In the Supreme Court of the United States.

Ex parte
SIR JOHN THOMPSON, K. C. M. G.
HER BRITANNIC MAJESTY'S ATTORNEY-GENERAL OF CANADA.
} No. Original.

SUGGESTION FOR WRIT OF PROHIBITION TO BE DIRECTED TO THE JUDGE OF THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE TERRITORY OF ALASKA.

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States:

Comes now, Sir John Thompson, K. C. M. G., Her Britannic Majesty's Attorney-General of Canada, and gives this Honorable Court to understand and be informed—

That whereas, by the law of nations, the municipal laws of a country have no extra-territorial force and cannot operate on foreign vessels on the high seas, and it is legally impossible, under the public law, for a foreign vessel to commit a breach of municipal law beyond the limits of the territorial jurisdiction of the law-making state;

And whereas, the seizure of a foreign vessel beyond the limits of the municipal territorial jurisdiction for breach of municipal regulations is not warranted by the law of nations, and such seizure can-

not give jurisdiction to the courts of the offended country, least of all where the alleged act was committed by the foreign vessel at the place of seizure beyond the municipal territorial jurisdiction;

And whereas, by the law of Nations, a British vessel sailing on the high seas is not subject to any municipal law except that of Great Britain; and by the said law of Nations a British ship so sailing on the high seas ought not to be arrested, seized, attached or detained under color of any law of the United States;

And whereas, by the laws of the United States as well as by the law of Nations, the District Courts of the United States have not, and ought not to entertain, jurisdiction or hold plea of an alleged breach upon the high seas of the municipal laws of the United States by the captain and crew of a British vessel, and can acquire no jurisdiction by a seizure of such vessel on the high seas though she be afterwards brought by force within the territorial limits of the jurisdiction of said courts;

And whereas, on the ninth day of July, 1887, there was between the Governments and peoples of Great Britain and the United States profound peace and friendship, which relations of peace and friendship had happily subsisted for nearly three-quarters of a century before said ninth day of July, 1887, and still endure to the great comfort and happiness of two kindred peoples;

And whereas, on the said ninth day of July, 1887,

the schooner "*W. P. Sayward*," a British vessel, duly registered and documented as such, and having her home port at Victoria in the Province of British Columbia, Dominion of Canada, and commanded by one George R. Ferry, a British subject, as Captain and Master thereof, was lawfully and peaceably sailing on the high seas, to wit: in latitude 54° 43′ North longitude 167° 51′ West, fifty-nine miles from any land whatsoever, and then being fifty-nine miles northwest from Cape Cheerful, Oonalaska Island, upon waters between Oonalaska and Prybyloff Islands in Behring's Sea, as more fully appears by the chart in the record of the proceedings of the District Court of the United States in and for the Territory of Alaska hereinafter referred to;

And whereas, said schooner was at said time and place unlawfully and forcibly seized and arrested by an armed vessel of the United States Revenue Marine, to wit, the U. S. Rev. Cutter "*Rush*," cruising under instructions of the Secretary of the Treasury of the United States for the sole purpose of enforcing the municipal law of the United States, and the said British Schooner was thereupon unlawfully, wrongfully and forcibly detained and seized, and was by force taken by the said "*Rush*" to the port of Sitka, in the territory of Alaska, United States of America, and within the Territory of Alaska and the waters thereof and within the dominion of the United States in Behring's Sea;

And whereas, the said British schooner being as aforesaid so unlawfully, wrongfully and forcibly seized on the high seas and without the limits of

Alaska Territory or the waters thereof, and being so unlawfully, wrongfully and forcibly brought within the limits of Alaska Territory and the waters thereof; nevertheless a certain M. D. Ball, an attorney of the United States for the District of Alaska, not ignorant of the premises, but unmindful of the danger of disturbing the peace and harmony subsisting between the United States and Great Britain, did, by process out of the District Court of the United States in and for the District of Alaska, attach and arrest the said schooner "*W. P. Sayward*," so as aforesaid wrongfully seized while lawfully sailing on the high seas under the protection of the law of nations, and so as aforesaid wrongfully and forcibly brought within the said port of Sitka in the Territory of Alaska, and before the judge of the said District Court, contrary to the said laws of nations and the laws of the United States, did unjustly draw in plea to answer a certain libel by him, the said M. D. Ball, against the said schooner, her tackle, apparel, boats, cargo and furniture exhibited and promoted, craftily and subtilly therein alleging and articulating that the said schooner "*W. P. Sayward*," her tackle, apparel, boats, cargo and furniture were seized *on the ninth day of July*, 1887, within the limits of Alaska Territory, and in the waters thereof, and within the civil and judicial District of Alaska, to wit, within the waters of that portion of Behring's Sea belonging to the United States and said District, and that all said property was *then and there* seized as forfeited to the United States for the following causes: That the said vessel and her captain, officers and crew were *then and there* found engaged in killing fur seal within the limits of

Alaska Territory and in the said waters thereof in violation of section nineteen hundred and fifty-six of the Revised Statutes of the United States, and that on said ninth day of July, 1887, George R. Ferry and certain other persons whose names were to the said attorney unknown, who were *then and there* engaged on board said schooner "*W. P. Sayward*," as seamen and seal hunters, did, under the direction and by the authority of George R. Ferry, *then and there* master of said schooner, engage in killing, and did kill in the Territory and District of Alaska and in the waters thereof, thirty fur seals in violation of Section 1956 of the Revised Statutes of the United States in such cases made and provided. WITHOUT THIS, however, and the said M. D. Ball not in any way alleging, or articulating, that the said seizure was made, or the said killing of seal was done within any river or bay of the United States, or within a marine league of the coast of any portion of the mainland, or any island belonging to the United States, or that the said vessel and her master and crew were subject to the laws of the United States sailing upon the high seas, or that any portion of the high seas beyond a marine league from the coasts of the mainland or adjacent islands was within the jurisdiction of the United States;

And whereas, a demurrer by claimant filed on the fifteenth day of September, 1887, alleging the insufficiency of the libel, was overruled by the court on the said fifteenth day of September, 1887, and thereafter the claimant filed his answer specifically denying the allegations of the libel that the seizure aforesaid was made within the waters of Alaska Territory,

or within the civil and judicial District of Alaska, or in any portion of Behring's sea belonging to the United States, and specifically denying the allegations of the libel that the said vessel, her captain, officers and crew were *then and there* found engaged in killing fur seal within the limits of Alaska Territory, or in the waters thereof, or that any of them did kill any fur seal therein ;

And whereas, at the trial of said cause, the libellant, through its witnesses, by it called in that behalf, to wit, the captain and officers of the "*Rush*" did make plain and clear to the court what was not clearly disclosed in the libel, that is to say, the place of the alleged offence, and the place of said seizure ; and did support the averments of the claimant's answer, and by its evidence so offered in its behalf and not gainsaid in any way, did show that the place of the alleged killing of seal was without the limits of Alaska Territory or the waters thereof, and that the said seizure was not made, nor said killing of seal done, within the waters of Alaska Territory, or within the civil and judicial District of Alaska, or in any portion of Behring's Sea belonging to the United States, but that the place of the alleged offence, and the place of said seizure, was upon the high seas, to wit: in latitude 54° 43′ north, and longitude 167° 51′ west, fifty-nine miles distant from any land whatsoever, and fifty-nine miles northwest from Cape Cheerful, Oonalaska Island, upon waters between Oonalaska and Prybyloff Islands in Behring's Sea, which said testimony for libellant, as to place of seizure and place of alleged offence, was supported by that of the claimant. So that the Judge of the District Court of the United States for the District of Alaska, was fully informed that the seizure had been made and the said killing of seal done on the high seas without the limits of Alaska Territory or the waters thereof, and that said

vessel was brought by force within the jurisdiction of said court, and that therefore, under the laws of nations and under the laws of the United States, he had, and could have, no jurisdiction of the alleged offence or of the vessel so as aforesaid unlawfully, wrongfully and tortiously seized without the jurisdiction of the United States and of the court, and so wrongfully and by force brought within the jurisdiction of the United States and of the court, yet nevertheless, being so fully advised, said judge of the District Court of Alaska aforesaid, did, on the nineteenth day of September, 1887, in contempt of the authority of the United States, in violation of the laws of the United States and of the laws of nations, and to the great danger of the friendly relations happily subsisting between Great Britain and the United States, assert and attempt to exercise jurisdiction over the said vessel, the same being the vessel of a friendly nation at peace with the United States, knowing the same to have been unlawfully seized on the high seas without the jurisdiction of the United States, and knowing the place of the alleged offence against a statute of the United States to be alleged and proved to be the same place as the place of seizure, that is to say, the high seas without the limits of the Territory of Alaska or the waters thereof, and without the juris diction of the United States; all this the said District Judge well knowing, he did find as fact the killing of fur seal on the ninth day of July, 1887, by the captain and crew of the aforesaid British vessel, the "*W. P. Sayward*," at the said place of seizure as aforesaid, and did find as conclusion of law that such killing at such place on the high seas, to wit, at the said place of seizure in latitude 54° 43′

North and longitude 167° 51′ West, and fifty-nine miles from any land whatsoever and fifty-nine miles northwest from Cape Cheerful, Oonalaska Island, was in violation of Section 1956 of the Revised Statutes of the United States, and by reason thereof the libellant was entitled to a decree of forfeiture of the said British vessel, her tackle, apparel, boats, cargo and furniture;

And whereas, after said assertion of jurisdiction to condemn and forfeit said vessel, and before decree or sentence, the claimant did move the court to arrest the decree of forfeiture, and among other grounds did distinctly set up that the court had no jurisdiction over the subject matter of the cause, as shown by libellant's own testimony as to place of offence and seizure.

Yet the said court did, nevertheless in contempt of the authority of the United States and in violation of the laws of the United States and in violation of the laws of nations, and to the manifest danger of the peaceful relations of the two countries, assert and attempt to exercise jurisdiction in the premises; and on the nineteenth day of September, 1887, did make and enter a pretended decree of forfeiture to the United States of said vessel, her tackle, apparel, boats, cargo and furniture, and direct that unless an appeal be taken the usual writ of *venditioni exponas* be issued to the marshal commanding him to sell all said property and bring the proceeds into court to be distributed according to law, costs to be taxed and awarded against the claimants.

And whereas, one Thomas Henry Cooper a British

subject being admitted as the actual owner of the said schooner "*W. P. Sayward*," by order of the District Court to interpose as claimant did, in order to prevent the execution of said decree, take an appeal to this Honorable Court on the 26th day of April, 1888, and docketed the same on the 30th day of October, 1888, under No.

And whereas, all matters of fact hereinbefore recited and alleged, save and except those of which this Honorable Court takes judicial notice, appear by the record and proceedings of the District Court of the United States in and for the Territory of Alaska;

And whereas, the said appeal has been dismissed by this Honorable Court on the application of the claimant, appellant, himself, not only because he is advised that there is no appeal given to this Court from the District of Alaska by the laws of the United States, but because he is advised that the District Court being wholly without jurisdiction its decree was and is a nullity, and this Honorable Court is fully authorized by Section 688 of the Revised Statutes of the United States to prohibit any proceedings in the District Court for the enforcement of the same;

And whereas, the said Sir John Thompson, Her Britannic Majesty's Attorney-General of Canada, is advised that in consequence of the dismissal of the appeal, according to the practice of this Honorable Court, its mandate will issue in due course without further consideration by this Court, which said mandate would, in ordinary course, not only permit,

but command the District Court of Alaska to proceed to execute its pretended decree of forfeiture, and it is therefore eminently proper that this Honorable Court should understand and be informed of all and singular the matters in this suggestion recited and alleged to the end that this Court shall consider this suggestion for prohibition before issuing its mandate, so that it may either frame a special mandate or take order that the ordinary mandate shall not reach the District Court before the Writ of Prohibition herein suggested, or a rule to show cause why said writ should not issue, shall be served upon said Court.

Wherefore the said Sir John Thompson, K. C. M. G., Her Britannic Majesty's Attorney-General of Canada, the aid of this Honorable Court most respectfully requesting, for said Thomas Henry Cooper, submits to this Honorable Court that a writ of Prohibition ought to be issued out of this Honorable Court to the Judge of the District Court of the United States in and for the Territory of Alaska to be directed, to prohibit him from holding the plea aforesaid, the premises aforesaid, anywise concerning further before him, and to prohibit him from in any manner enforcing the said decree or sentence, or from treating the said decree as a valid sentence, for any purpose, or from taking any steps whatsoever in the cause aforesaid as to said decree or any matter or thing remaining to be done in consequence of said decree, and prohibiting him, the said Judge, from making or entering any order, judgment or decree in and about the certain stipulation exacted and required in the course of said proceedings, and generally from the further exercise of jurisdiction in

said cause, or the enforcing any order, judgment or decree made under color thereof.

And the said Sir John Thompson, K. C. M. G. Her Britannic Majesty's Attorney-General of Canada, most respectfully informs this Honorable Court that the fact that this his suggestion is presented with the knowledge and approval of the Imperial Government of Great Britain, will be brought to the attention of the Court by counsel duly thereunto authorized by Her Britannic Majesty's representative in the United States.

CALDERON CARLISLE,
Counsel for Sir John Thompson, K. C. M. G., Her Britannic Majesty's Attorney-General of Canada.

I have read the foregoing suggestion by me subscribed, and the facts therein stated are true to the best of my knowledge and belief.

CALDERON CARLISLE.

Subscribed and sworn to before me this 12th day of January, 1891.

OSCAR LUCKETT,
[SEAL.] *Notary Public.*